

***United States Court of Appeals
for the Second Circuit***



APPENDIX

77-4162 B

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

P/5

CROSS-SOUND FERRY SERVICES, INC.)

Petitioner,)

v.)

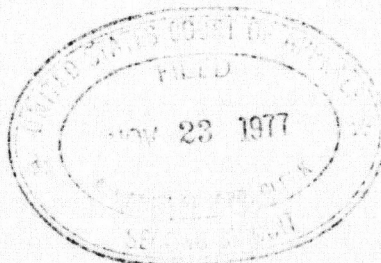
No. 77-4162

THE UNITED STATES OF AMERICA and)
INTERSTATE COMMERCE COMMISSION,)

Respondents.)

JOINT APPENDIX

VOLUME II



PAGINATION AS IN ORIGINAL

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VOLUME II

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Document Numbers 356-404
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DOCUMENT 356



Doc. 356
SERVICE DATE

ORDER

APR 8 1977

At a Session of the INTERSTATE COMMERCE COMMISSION, Division 1,
Acting as an Appellate Division, held at its office in
Washington, D. C., on the 5th day of April , 1977.

No. W-1270

MASCONY TRANSPORT AND FERRY SERVICE, INC., INITIAL OPERATIONS -
NEW LONDON TO GREENPORT, L. I. NEW YORK
(New Bedford, Mass.)

Upon consideration of the record in the above-entitled
proceeding, and of:

- (1) Petition of Shelter Island and Greenport Ferry Company, Inc., intervener, filed December 17, 1976, for reconsideration, and to reopen the proceeding for the receipt of additional evidence;
- (2) Petition of Downtown New London Association, filed December 17, 1976, for leave to intervene;
- (3) Petition of Downtown New London Association, tendered for filing December 17, 1976, for reconsideration;
- (4) Petition of Association of Businessmen of Greenport, filed December 17, 1976, for leave to intervene and embracing a tendered petition for reconsideration;
- (5) Petition of Chamber of Commerce of Southeastern Connecticut, filed December 17, 1976, for leave to intervene;
- (6) Petition of Chamber of Commerce of Southeastern Connecticut, tendered for filing December 17, 1976, for reconsideration;
- (7) Petition of Harry J. Mitchell and Pauline Mitchell, filed December 20, 1976 for leave to intervene;
- (8) Petition of Harry J. Mitchell and Pauline Mitchell, tendered for filing December 20, 1976, for reconsideration;
- (9) Petition of Alfred S. Bicknell, filed December 20, 1976, for leave to intervene;
- (10) Petition of Alfred S. Bicknell, tendered for filing December 20, 1976, for reconsideration;
- (11) Petition of Nelseco Navigation Company, filed December 20, 1976, for leave to intervene;

- (12) Petition of Nelseco Navigation Company, tendered for filing December 20, 1976, for reconsideration;
- (13) Petition of the Village of Greenport, intervenor, filed December 20, 1976, for reconsideration;
- (14) Petition of New York State Department of Transportation, intervenor, filed December 20, 1976;
- (15) Petition of East End Supply Co., Inc., intervenor, filed December 20, 1976, for reconsideration;
- (16) Petition of Cross-Sound Ferry Service, Inc., protestant, filed December 20, 1976, for reconsideration;
- (17) Petition of Bridgeport & Port Jefferson Steamboat Company, protestant, filed December 20, 1976, for reconsideration;
- (18) Reply by applicant filed January 7, 1977, embracing a motion to strike the pleading in (4) above;
- (19) Petition of applicant, filed February 3, 1977, for leave to file supplemental reply to petitions for reconsideration;
- (20) Motion of Cross-Sound Ferry Services, Inc., protestant, filed February 8, 1977, to strike portions of the reply in (18) above, and to strike the supplemental reply in (19) above;

and good cause appearing therefor:

It is ordered, That Downtown New London Association, Association of Businessmen of Greenport, Chamber of Commerce of Southeastern Connecticut, Harry J. Mitchell and Pauline Mitchell, Alfred S. Bicknell, and Nelseco Navigation Company be, and they are hereby, permitted to intervene in the above-entitled proceeding with the right to appear and participate in all further proceedings therein.

It is further ordered, That the proceeding be, and it is hereby, reopened solely for the purpose of allowing applicant to submit additional evidence, as set forth below, and protestants and interveners to reply.

It is further ordered, That April 28, 1977, be, and it is hereby, fixed as the date on or before which applicant may submit additional evidence in the form of verified statements regarding docking, staging, and loading sites at Greenport, N. Y., and New London, Conn.; and that May 18, 1977, be, and it is hereby, fixed as the date on or before which protestants and interveners may submit verified statements in reply to such matters.

It is further ordered, That the petitions and motions in all other respects be, and they are hereby, denied and

overruled, respectively.

By the Commission, Division 1, Acting as an Appellate Division, Commissioners Murphy, Gresham, and MacFarland, Commissioner Murphy concurring and Commissioner Gresham dissenting.

(SEAL)

ROBERT L. OSWALD,
Secretary.

Commissioner Murphy, concurring:

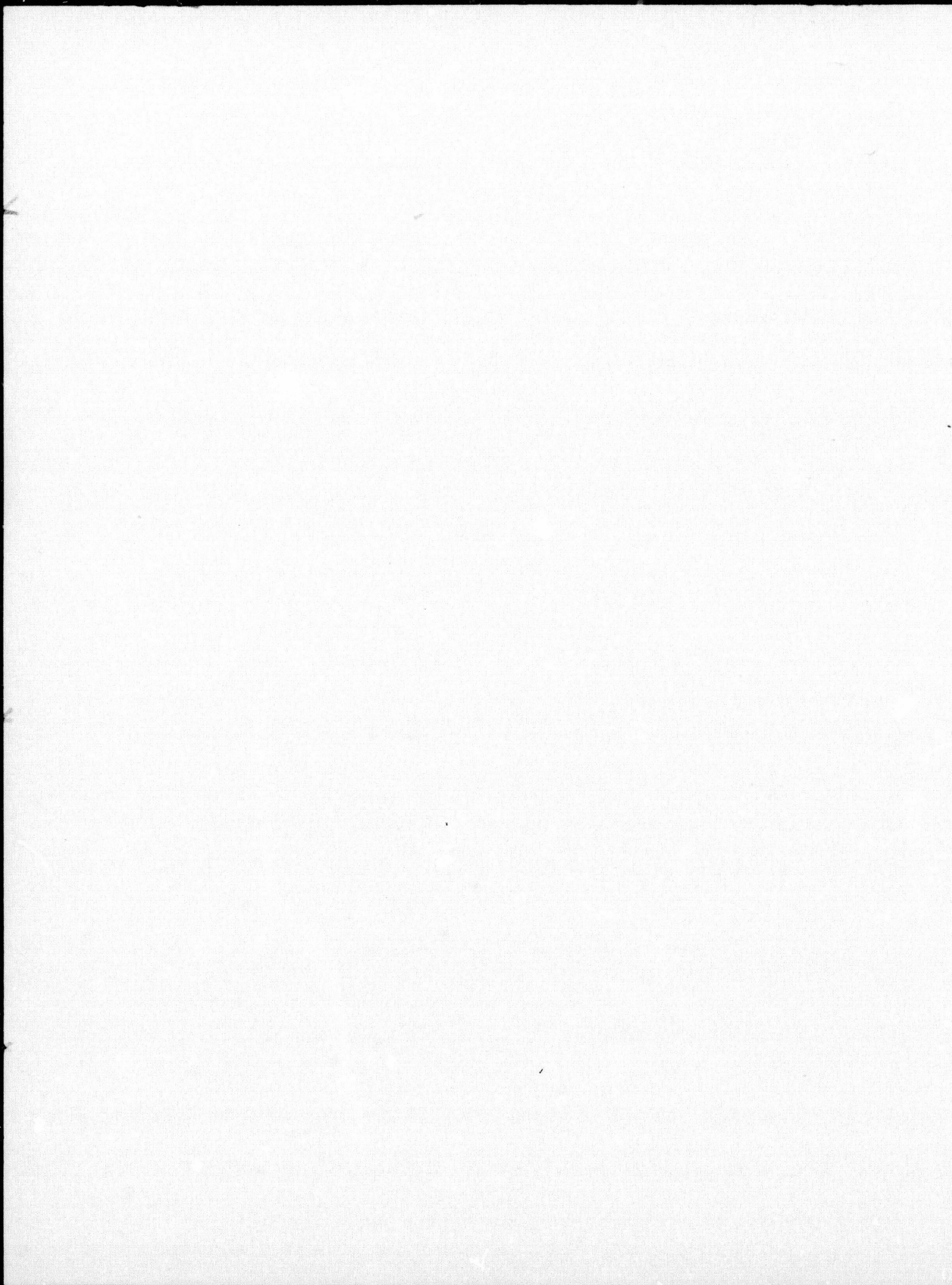
While I would have preferred that protestants also be allowed to submit additional evidence, nevertheless, in light of the prior decision of Division 1 in Mascony Transport & Ferry Serv., Inc., Init. Ops., 353 I.C.C. 60, I am in agreement with the proposed reopening herein.

Commissioner Gresham, dissenting:

Despite the fact that the public has waited close to 4 years for applicant's needed service, the majority is now forcing further unnecessary delay for the limited purpose of discovering applicant's operational details. Unfortunately, the majority is forgetting why we imposed a 3-year term limitation on this authority.



DOCUMENT 357



BEFORE THE
INTERSTATE COMMERCE COMMISSION
IN THE MATTER OF
MASCONY TRANSPORT AND FERRY SERVICE, INC.
- INITIAL OPERATIONS -
NEW LONDON TO GREENPORT, L.I., N.Y.

DOCKET NO. W-1270

APPLICANT'S VERIFIED STATEMENTS

Applicant's Representatives:

Frank J. Weiner
Wesley S. Chused
15 Court Square
Boston, Massachusetts 02108

DUE DATE: April 28, 1977

Attorneys for Applicant

CERTIFICATE OF SERVICE

I hereby certify that I have this 22nd day of April 1977, served a copy of the attached verified statements and appendices upon all parties of record in this proceeding, by mailing, by first class mail, postage prepaid, a copy thereof, properly addressed to each.

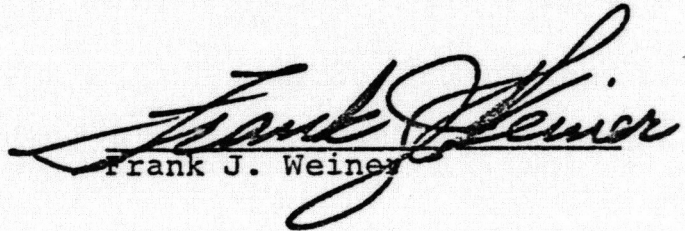

Frank J. Weiner

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1. Verified statement of George R. Power and appendices.
2. Verified statement of William Bertenshaw.
3. Verified statement of Henry Luke.
4. Verified statement of Ernest Cordeiro.
5. Verified statement of Edwin E. Davies, Jr.
6. Verified statement of John J. Andreoni.
7. Verified statement of David Kellem.
8. Verified statement of Vernon J. Nelson.

VERIFIED STATEMENT
OF
GEORGE R. POWER

My name is George R. Power. I am President of Mascony Transport and Ferry Service, Inc., Room 206, Masonic Building, 558 Pleasant Street, New Bedford, Mass. 02740.

I am the same person that appeared and testified on behalf of Mascony Transport and Ferry Service, Inc., hereafter referred to as applicant. This verified statement is being submitted pursuant to the order of the Interstate Commerce Commission, Division 1, dated April 5, 1977 and served April 8, 1977.

I submit as Appendix 1, a diagram reflecting the docking, staging, and loading site at Greenport, New York. Appendix 1 reflects the facilities at Greenport, New York with respect to the loading of the vessel. Appendix 1 conforms to the diagram depicted as Figure 4 appearing on page 87 of the decision of Division 1 in Mascony Transport and Ferry Service, Inc., Initial Operations, 353 I.C.C. 60. I have identified on Appendix 1, those Mascony owned and leased properties as reflected in Figure 4 on page 87 of the prior report and identified as parcels A, B, C, and E.

As reflected in the report, applicant owns the properties designated as parcels A and B. That property designated as parcel C, and also known as the "Bohack" property was conveyed to William Bertenshaw, Henry Luke,

Ernest Cordeiro, Edwin E. Davies, Jr., and John J. Andreoni. A copy of the deed reflecting that conveyance has been submitted to the Commission by the Village of Greenport in its petition for reconsideration.

As stated by applicant in its reply to the various petitions for reconsideration, the "Bohack" property was conveyed to the grantees in view of the fact that applicant required additional cash. Applicant had never expected the proceeding to take as long as it did to be decided upon by the Commission. The agreement between applicant and the grantees of the "Bohack" property provides that applicant has full use of the property while it is owned by the grantees and that the grantees will reconvey the property to applicant at any time for either cash or in exchange for additional stock. William Bertenshaw, Henry Luke, Ernest Cordeiro, Edwin E. Davies, Jr., and John J. Andreoni are stockholders of applicant. William Bertenshaw is also a director of the applicant corporation.

As Mascony owns that land designated as parcel B and has the use of the "Bohack" property designated as parcel C, vehicles will be staged on parcels B and C for loading on to the vessel as reflected in Appendix 1.

The lot designated as parcel A on Appendix 1 (which is owned by Mascony) will be used for all day parking and/or overnight parking by those persons that desire to use the ferry, as foot passengers, from Greenport, Long Island to New London, Conn. leaving their vehicles at Greenport, Long

Island. Depending on the traffic flow, the lot designated as parcel A can also be used for staging if necessary.

I submit as Appendix 2, a similar diagram of the Greenport site. Appendix 2 depicts the traffic flow for vehicles leaving the ferry. This pattern of traffic flow is substantially the same as that appearing in Figure 4, page 87 of the initial report of the Commission in Mascony as cited above. Depending on the traffic flow and conditions, there are two methods of egress from the ferry.

It is the intent of Mascony to have its own personnel available at all times when the ferry docks to direct the loading of vehicles and unloading of vehicles. At no time would the loading and unloading of vehicles be conducted simultaneously so as to cause congestion at the loading and/or unloading site and/or the village streets.

As previously represented to the Commission, the property designated as parcel E on Appendix 2 is available to applicant under certain leases between applicant and Advine Realty Corp. In their petition for reconsideration, Harry J. Mitchell and Pauline Mitchell, hereafter referred to as the Mitchells, contended that the property described as Parcel E was no longer available to Mascony and that the Mitchells commenced action in the Supreme Court of the State of New York, County of Suffolk against Mascony and Advine for a judgment declaring that the leases were invalid and of no further force or effect.

I submit as Appendix 3, a copy of the Memorandum of the

Supreme Court of New York, Suffolk County, dated February 24, 1977, Harry Mitchell a/k/a, Harry J. Mitchell and Pauline Mitchell -vs- Advine Realty Corp. and Mascony Transport and Ferry Service, Inc., Motion No. 15,881. In the New York Supreme Court proceeding, the Mitchells sought a preliminary injunction seeking a judgment reforming the subordination executed by the plaintiff's (Mitchell's). A review of the court's Memorandum shows that the court denied the plaintiffs' request for a preliminary injunction and in essence, applicant now has full use of the property described as parcel E as reflected on Appendices 1 and 2.

I submit as Appendix 4, a smaller map depicting the Greenport, N.Y. properties. Said map indicates the location of the proposed dolphins and certain sections of existing piers that are to be removed. Those portions to be removed are reflected in Appendices 1 and 2.

I submit as Appendix 5, a copy of the permit dated March 2, 1977 from the Department Of The Army, Corps. of Engineers, authorizing applicant to install multi-pile dolphins as reflected in the diagram submitted herewith as Appendix 4.

Applicant's original docking, staging and loading site at New London, Connecticut was that of the so-called DeNoia property wherein Mascony held an option to purchase the 20,000 square foot parcel of the DeNoia property. That parcel had the potential for parking and staging of 213 vehicles. As indicated in the prior report at page 84,

utilization of the so-called DeNoia property would have required the installation of a grade across the ConRail tracks and a fail-safe signal. DeNoia would not guarantee an opening for a grade crossing and the Secretary of Transportation would have had to approve any new private grade crossing.

In its overall plan and attempt to improve its docking, staging, and loading site at New London, Connecticut, applicant secured a lease of the New London Municipal Pier and the description of the New London Municipal Pier was treated by the Commission at pages 82,83, and 84 of its prior report.

During the pendency of this proceeding, the protestant New London Freight Lines, Inc. sold its operating authority to Cross-Sound Ferry Services, Inc., hereafter referred to as Cross-Sound. Cross-Sound is owned by the Wronowski family.

After the option to acquire the DeNoia property expired, applicant entered into an agreement with the City of New London to lease its Municipal Pier. The lease between applicant and the City of New London had been in existence for several years and expired on or about December 1, 1976. The report of the Commission in Mascony was decided November 3, 1976 and served November 19, 1976 or 11 days prior to the termination of the lease. The New London City Council, in a meeting on December 13, 1976 voted to extend the lease of the city pier to applicant, provided, applicant not use the city pier for a ferry service to Long Island, New York. Obviously such a lease would be worthless as applicant

intended to use the Municipal Pier in its proposed operations between New London, Connecticut and Greenport, Long Island and the New London City Council knew this for several years. Stated differently, the New London City Council was willing to enter into another lease with Mascony, provided Mascony used the pier to conduct a ferry service to any point except Long Island.

Applicant ascertained that the Council of the City of New London was entertaining a proposal by Nelseco Navigation Company hereafter referred to as Nelseco, wherein Nelseco proposed to use the same Municipal Pier, free of charge, in order to operate a ferry service between New London, Connecticut and Groton, Connecticut. Nelseco is also owned and controlled by the same Wronowski family that now owns and controls Cross-Sound.

In its reply to the various petitions for reconsideration, applicant stated that it has other property available for a site within the City of New London.

In April 1976, I, on behalf of the applicant, commenced discussions and negotiations with the New London Connecticut Redevelopment Agency concerning certain property available in the Shaw's Cove redevelopment area for use as a docking, staging and loading site. The particular parcel involved is the so-called DeNoia property in its entirety. I submit as Appendix 6, a copy of a letter dated April 8, 1976 and forwarded to applicant by the New London Connecticut Redevelopment Agency.

I submit as Appendix 7, a copy of letter forwarded to

applicant from the New London Connecticut Redevelopment Agency. Appendices 6 and 7 pertain to the property desired to be used by applicant in its operations. The land involved consists of approximately 68,000 square feet.

Applicant has also entered into a lease agreement with Kellems Realty Corp. which owns a dock contiguous to the New London Connecticut Redevelopment Agency property. I submit as Appendix 8, a map depicting the area proposed to be acquired from the New London Connecticut Redevelopment Agency. Said Appendix 8 also reflects the Kellems Realty Corp. dock. Reference to Appendix 8 shows that exiting from the vessel will be accomplished by having the vehicles leave the vessel from the dock and enter onto Sparyard Street, New London, Connecticut.

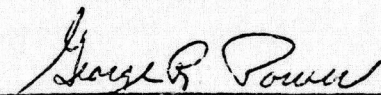
I submit as Appendix 9, an additional diagram reflecting the same New London Connecticut Redevelopment Agency property and said Appendix 9 depicts the staging area for loading. Vehicles will be staged in that area described as having approximately 68,000 square feet and will be loaded onto the vessel after all vehicles have been unloaded from the vessel.

I submit as Appendix 10, a map depicting in smaller scale, the New London Connecticut Redevelopment Agency property and the Kellems Realty Corp. dock. There is presently a grade crossing between the New London Connecticut Redevelopment Agency property and the Kellems' dock. This an existing grade crossing and will continue to remain open. Personnel

of Mascony will be available at all times to direct the traffic for those vehicles leaving the ferry and for those vehicles desiring to board the ferry. The New London Connecticut Redevelopment Agency has informed applicant that this crossing will be equipped with a signalling device, that the cost for the device will be obtained from the Federal Highway Administration and the redevelopment project expenditures, and that the Federal Highway Administration has agreed to allow the existing grade crossing to remain open in view of the fact that the grade crossing is presently being used and foreclosure to the use of the existing grade crossing would render the New London, Connecticut shore line properties as useless. Notwithstanding the equipping of a signalling device, Mascony personnel will be on duty at all times to direct that traffic of vehicles leaving and boarding the ferry.

I submit as Appendix 11, a copy of the agreement between applicant and Kellems Realty Corp. Said agreement pertains to an option to purchase the Kellems Realty Corp. dock and applicant intends to exercise that option should applicant be granted the authority it seeks. Although the option expires on May 3, 1977, applicant has renewed the option for an additional period of time as reflected on Appendix 12.

Respectfully submitted,


George R. Power

VERIFICATION

COUNTY OF: Suffolk

STATE OF: Massachusetts

George R. Power, being duly sworn, deposes and says that he has read the foregoing statement, knows the contents thereof, and that the same are true as stated.

George R. Power
George R. Power

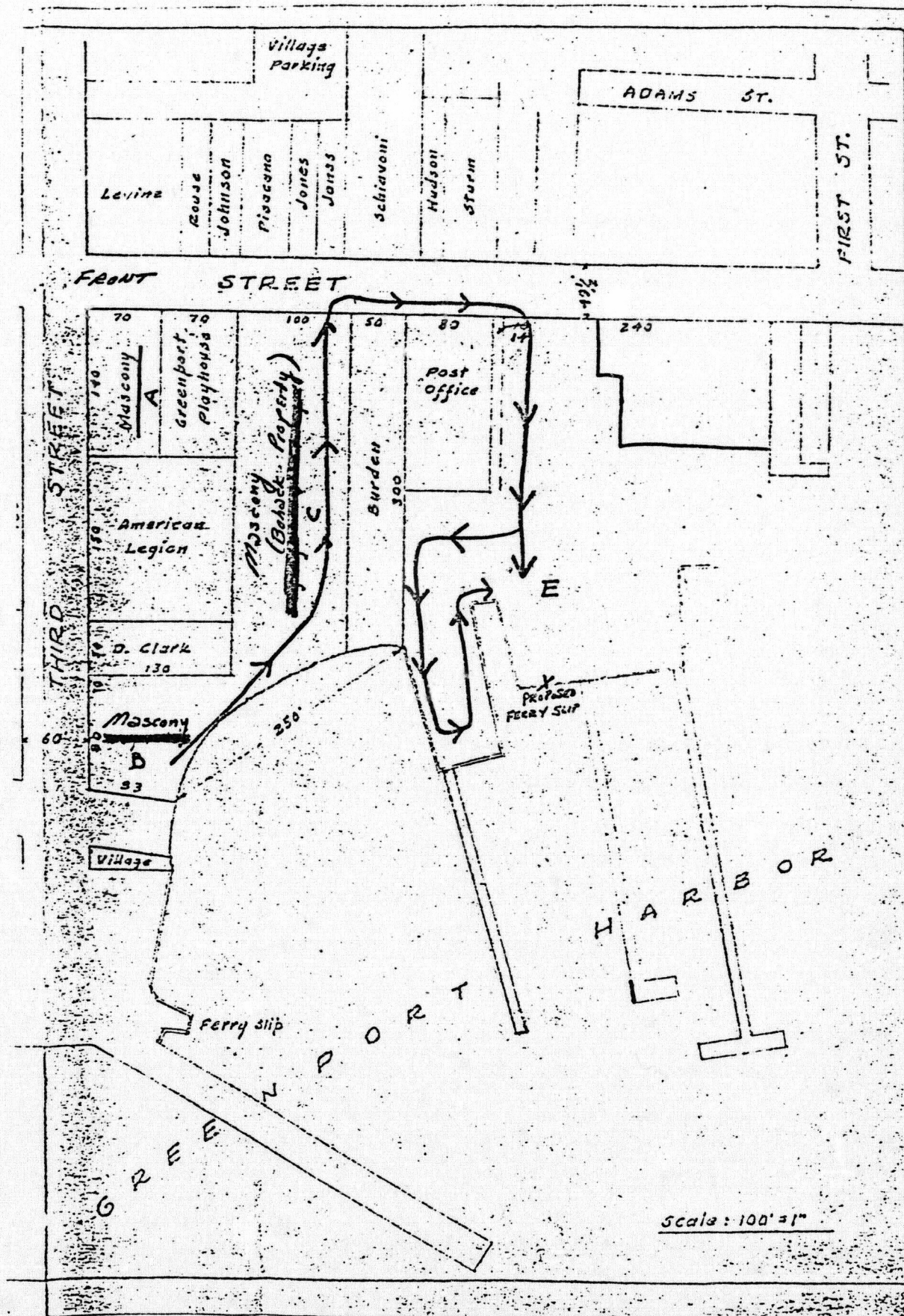
Subscribed and sworn to before me, a notary public this 22nd day of April 1977.

Frank J. Power
Notary Public

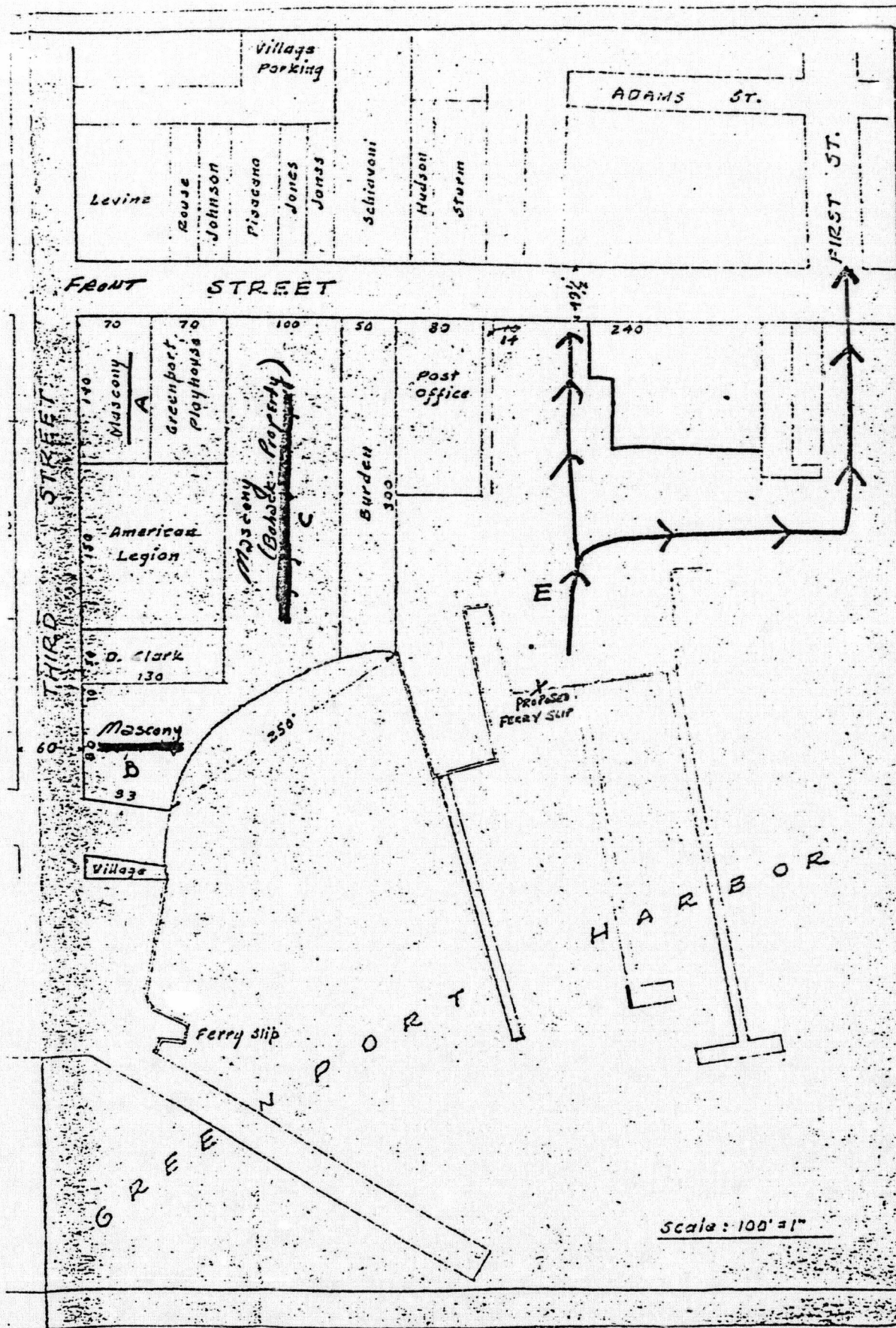
My Commission Expires: December 8, 1983

(SEAL)

APPENDIX 1



Scale: 100' = 1"



MEMORANDUM

APPENDIX 3

SUPREME COURT, SUFFOLK COUNTY

SPECIAL TERM PART I

HARRY MITCHELL, a/k/a HARRY J. MITCHELL, and PAULINE MITCHELL,

BY BRACKEN, J. S. C.

VS. Plaintiffs,

DATED February 24, 19 77

ADVINE REALTY CORP. and MASCONY TRANSPORT and FERRY SERVICE, INC.,

Motion No. 15,881
Motion date: February 14, 1977
Index No. 76-8831

Defendants.

SCHEINBERG, WOLF, LAPHAM, DEPETRIS & PRUZANSKY, ESQS.
Attorneys for Plaintiffs
220 Roanoke Avenue
Riverhead, New York 11901

MC NULTY, DIPIETRO, NESCI & HAEFELI, ESQS.
Attorneys for Defendant, Mascony
130 Ostrander Avenue, P.O. Box 757
Riverhead, New York 11901

By Order to Show Cause granted by this Court December 22, 1976, the plaintiffs seek a preliminary injunction pursuant to Article 63, CPLR, in this action which seeks a judgment reforming the subordination executed by the plaintiffs: (All exhibits, infra, refer to exhibits of the complaint unless otherwise indicated)

1. Letter dated February 25, 1974 (Exhibit F) executed by the plaintiffs when they, as holders of a purchase money mortgage, subordinated the mortgage, "...to the leases with MASCONY TRANSPORT AND FERRY SERVICE, INC., dated February 16, 1974."; and
2. Subordination Agreement (Exhibit G) dated and acknowledged March 14, 1974, wherein the plaintiffs subordinated their purchase money mortgage to leases dated February 16, 1974.

The complaint seeks other relief which is premised upon and which would flow from a reformation of said subordinations, to limit said subordinations to plaintiffs' Exhibit B, infra.

MEMORANDUM

SUPREME COURT, SUFFOLK COUNTY

SPECIAL TERM

PART I

HARRY MITCHELL, a/k/a HARRY J.
MITCHELL, and PAULINE MITCHELL,
VS. Plaintiffs,
ADVINE REALTY CORP. et ano,
Defendants.

BY

BRACKEN, J. S. C.

DATED

February 24,

19

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Also before this Court is a cross-motion by the defendant, Mascony, for summary judgment pursuant to CPLR Rule 3212 dismissing plaintiffs' complaint and declaring the leases and agreements annexed to the complaint (Exhibits B, C and D) to be in full force and additional relief premised upon the subordination being applicable to Exhibits B, C and D.

The plaintiffs allege mistake on the part of the plaintiffs and their attorney in 1974 in the plaintiffs' execution of Exhibits F and G, supra, which contain the word "leases" and fraud by the defendants in disclosing only the existence of Exhibit B, infra, for purposes of obtaining the subordination agreements.

Exhibit B is a lease agreement dated February 16, 1974 between the defendant, Advine Realty Corp. as owners, and Mascony Transport and Ferry Service, Inc., as lessee. This basic lease agreement is for a period of ten years, for a total consideration of \$120,000.00 payable in monthly installments of \$1,000.00. The lease provides:

"The commencement date shall be the date following final approval by the United States Government, all appeals having been exhausted, of lessee's application to operate a ferry service between Greenport, Long Island and New London, Connecticut."

There is no limitation of time included in said lease for the obtaining

SUPREME COURT, SUFFOLK COUNTY

SPECIAL TERM

PART I

HARRY MITCHELL, a/k/a HARRY J.
MITCHELL, and PAULINE MITCHELL,

BY BRACKEN, J. S. C.

VS. Plaintiffs,

DATED February 24, 19 77

ADVINE REALTY CORP., et ano,

Defendants.

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of necessary approval by the lessee to operate a ferry service and it appears that the lessee had no obligation in the event such approval was not obtained.

Exhibit C is entitled, "Agreement" and recites that said agreement "...is collateral to and an integral part of the lease between Advine Realty Corp. and Mascony Transport and Ferry Service, Inc. also dated this 16th day of February, 1974." This agreement provides for discounting the lease payment by payment of \$25,000.00 on February 16, 1974 and \$50,000.00 within thirty days after commencement of the lease. This document refers to the Lease Agreement for purposes of determining commencement of the lease and this document also provides for \$25,000.00 liquidated damages, if approval was not obtained to operate a ferry service. Clause 5 of this agreement provides:

"Following the commencement of the licensed ferry service by Mascony from the "lease area" premises, Advine shall make every attempt to have Harry and Pauline Mitchell subordinate their mortgage to this lease."

Exhibit D is a lease agreement also dated February 16, 1974, covering a right of way in favor of Mascony. Exhibit D provides for accelerated payments of \$11,000.00 of the \$50,000.00 without specifically designating

MEMORANDUM

SUPREME COURT, SUFFOLK COUNTY

SPECIAL TERM

PART I

HARRY MITCHELL, a/k/a HARRY J.
MITCHELL, and PAULINE MITCHELL,

BY

BRACKEN,

J. S. C.

VS. Plaintiffs,

DATED

February 24,

19

77

ADVINE REALTY CORP., et ano,

Defendants.

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a time of such \$11,000.00 accelerated payment. Clause 4 of said lease provides,

"The LESSEE will not advance the eleven thousand (\$11,000) dollars to the LESSOR until it has reasonable assurance that Harry J. and Pauline Mitchell agree to subordinate the leases to their present mortgages without which this lease shall become null and void."

This lease provides for the payment of \$39,000.00 at the end of the three year period or at the time of the commencement of the proposed ferry service, whichever comes first.

In summary, this Court would note the provisions contained in Exhibits C and D, including, but not limited to, the provisions hereinbefore recited, substantially modify the "original lease". A reading of the lease, the second instrument this Court will refer to as a Rider, and the right-of-way lease indicate that the intention of the defendant landlord and the defendant tenant was to accelerate rental payments if the landlord obtained a subordination immediately to the three instruments, Exhibits B, C and D. An explanation of the circumstances resulting in the preparation and execution of the separate Rider, Exhibit C, will have to await the trial of this action.

Exhibit E is a handwritten document dated March 1, 1974 by the owner, lessor, in favor of the mortgagee, which indicates the consideration

MEMORANDUM

SUPREME COURT, SUFFOLK COUNTY

SPECIAL TERM

PART I

HARRY MITCHELL, a/k/a HARRY J. MITCHELL, and PAULINE MITCHELL,

BY

BRACKEN,

J. S. C.

VS.

Plaintiffs,

DATED

February 24,

19

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ADVINE REALTY CORP., et ano,

Defendants

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for the subordination of the mortgage to lease (singular) between Advine and Pascomy. (It appears that the subordination letter dated February 25, 1974 [Exhibit F] was prepared in advance of execution and the letter was never changed.)

The affidavit of the attorney, Ofrias, annexed to the defendant's cross-motion, does not disclose any details with respect to the preparation of Exhibits B, C and D, or the location of the original agreement dated and acknowledged March 8, 1974, a copy of which is annexed to the examination before trial of attorney O'Keefe (Attorney Ofrias represented the owner- lessor, Advine Realty, and the attorney O'Keefe represented the mortgagees, Mitchell, in 1974). This instrument dated March 8, 1974 was prepared pursuant to the requirement of Exhibit E. The plaintiffs' position herein is that the mortgagees' attorney, O'Keefe, was under certain physical disabilities in 1974 and this Court would add that apparently there was poor internal office procedure at attorney O'Keefe's office.

The pleadings, affidavits, affirmation and various exhibits submitted by the parties highlight the factual issues requiring a trial and preclude the granting of a preliminary injunction to the plaintiffs and preclude summary judgment to the defendants.

MEMORANDUM

SUPREME COURT, SUFFOLK COUNTY

SPECIAL TERM

PART I

HARRY MITCHELL, a/k/a HARRY J.
MITCHELL, and PAULINE MITCHELL,

BY BRACE N, J. S. C.

VS. Plaintiffs,

DATED February 24, 19 77

ADVINE REALTY CORP., et ano,

Defendants.

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If a third party defendant is chargeable with notice of all facts to which a diligent inquiry and investigation would lead him, certainly this same test, when applied to the plaintiffs, is sufficient reason in and of itself to deny a preliminary injunction.

A chronology of events subsequent to 1974 is as follows:

June 23, 1973 - Foreclosure action commenced by the plaintiffs. The defendant, Mascony, was not made a party to said action. The foreclosure search submitted to this Court on February 22, 1977, pursuant to this Court's request, does not reflect the recording of the subordination agreement (Exhibit G) on March 22, 1974 at the Suffolk County Clerk's Office in deed Liber 7609, page 181.

January 15, 1975 - Date of foreclosure

January 24, 1975 - Referee's deed delivered to plaintiffs herein.

June 3, 1976 - Commencement of the present action.

December 22, 1976 - Present Show Cause Order by the plaintiffs for a preliminary injunction.

Based only upon this chronology, there is sufficient reason to deny a preliminary injunction. Additionally, the use of the Show Cause Order and stay contained therein by the plaintiffs has resulted in delay in a determination by the U.S. Corps of Engineers of defendant, Mascony's application for a permit for certain installations at the proposed ferry slip. Finally, this Court would emphasize that a trial is essential to

MEMORANDUM

SUPREME COURT, SUFFOLK COUNTY

SPECIAL TERM

PART I

HARRY MITCHELL, a/k/a HARRY J.
MITCHELL, and PAULINE MITCHELL,

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VS. Plaintiffs,

DATED February 24, 19 77

ADVINE REALTY CORP., et ano,

defendants.

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test the credibility of the various parties and non-party witnesses,
some of whom, at a minimum, have faulty memories.

Mostly capital improvements, if undertaken by the defendant,
Mascony, prior to a judgment in this action, will not create any vested
interest and such improvements will not result in any irreparable harm
to the plaintiffs.

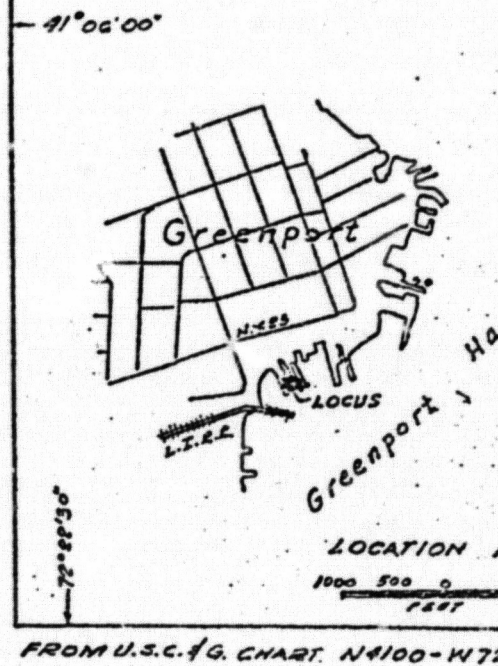
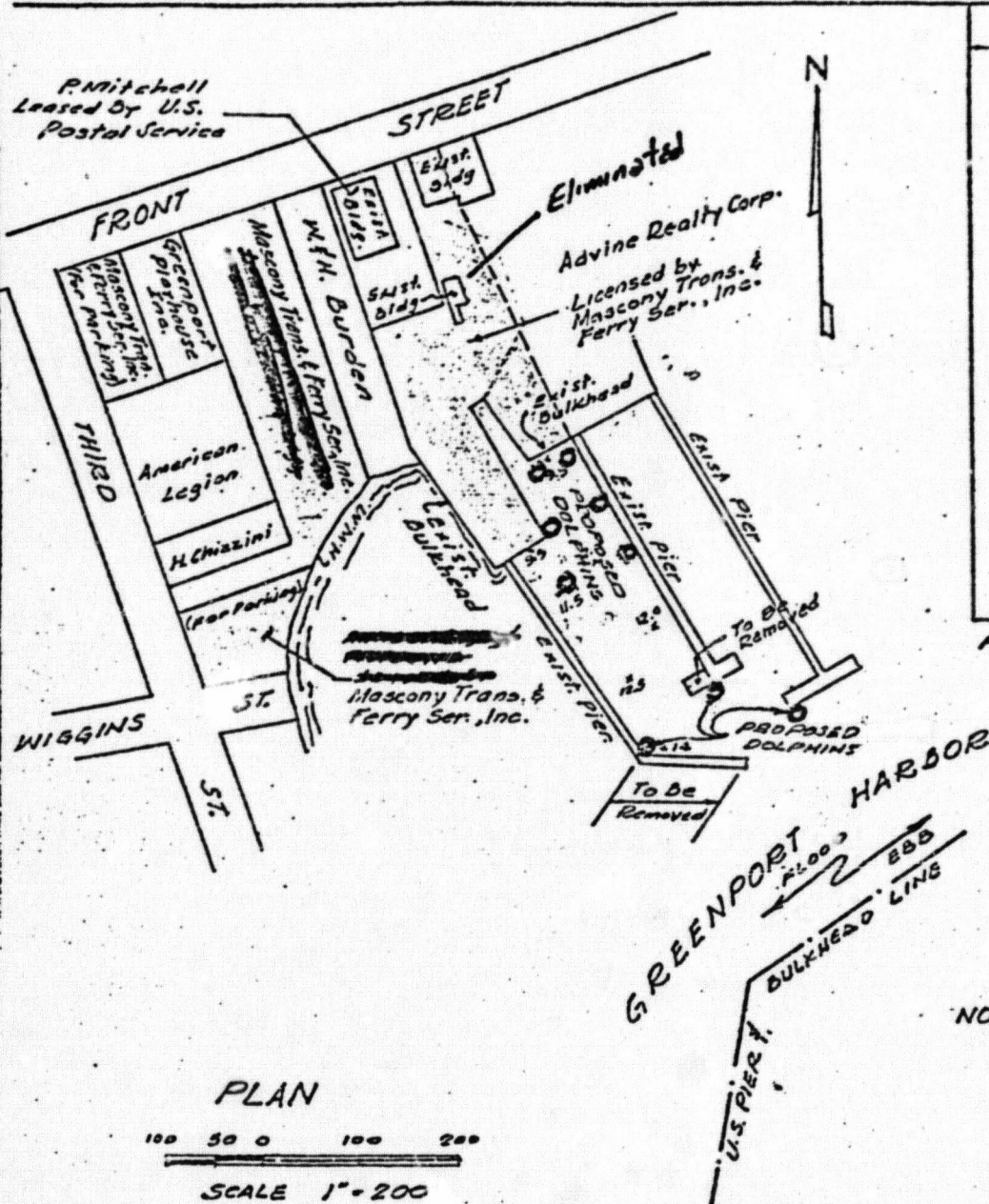
Plaintiffs' Show Cause Order is denied and the stay contained in
the Show Cause Order dated December 22, 1976 is hereby vacated in its
entirety.

The cross-motion by the defendant, Mascony, for summary judgment, is
denied.

This shall constitute the order to be entered herein.

J.S.C.

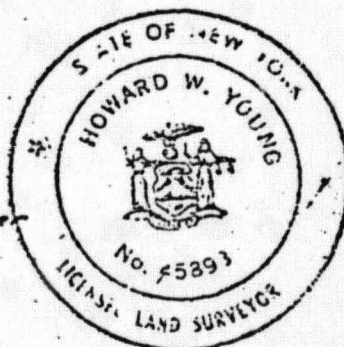
APPENDIX 4



NOTE:
SOUNDINGS SHOWN THUS: 12.5 ARE
FEET & ARE REFERENCED TO M.L.

ADJOINER ADDRESSES

1. Pauline Mitchell
Greenport, N.Y.
2. Advine Realty Corp.
115 Front St.
Greenport, N.Y.
3. A.W. Delfinger & P.J. Sauer
305 Nassau Ave.
Manhasset, N.Y.
4. William & Harry Burden
Greenport, N.Y.
5. Greenport Playhouse, Inc.
115 Middle Neck Rd.
Greatneck, N.Y. 11021
6. Helen Chizzini
Mt. Beulah Ave.
Southold, N.Y.
7. American Legion
Third St.



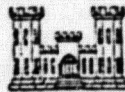
PROPOSED DOCKING FACILITY in Greenport Harbor at Greenport

County of Suffolk, State of New York
Application by:
Mascony Transport and
Ferry Service, Inc.
New Bedford, Mass.

May 11, 1973 Revised 6-10-74

PREPARED BY:
YOUNG & YOUNG
400 OSTRANDER AVENUE

APPENDIX 5



DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS
NOTICE OF AUTHORIZATION

2 March 1977

A PERMIT TO install multi-pile dolphins between two existing piers,
the dolphins will be used to form a vessel slip and to protect existing
structures as shown on the attached plans, in Greenport Harbor

AT Greenport, Suffolk County, New York

HAS BEEN ISSUED TO Mascony Transport & Ferry
Service, Inc.

ON 2 March 1977

ADDRESS OF PERMITTEE 206 Masconic Building
New Bedford, MA 02740

PERMIT NUMBER 10,043

THOMAS C. HUNTER, JR.
Colonel, Corps of Engineers
District Engineer

ENG FORM 4336
Jul 70

THIS NOTICE MUST BE CONSPICUOUSLY DISPLAYED AT THE SITE OF WORK.

NEW
LONDON
CONNECTICUT
REDEVELOPMENT
AGENCY



31 UNION STREET • NEW LONDON, CONNECTICUT 06320 • PHONE: 442-4337

F. JEROME SILVERSTEIN, *Chairman*
B. NORTON ROSSITER
SEYMOUR S. HENDEL
EDWARD N. PERRY
ERNEST F. KYDD, JR.
ROBERT P. TURK, *Executive Director*

April 8, 1976

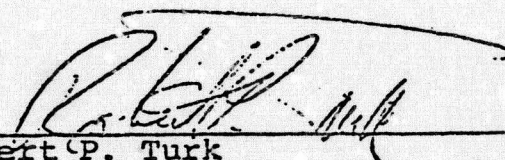
Mr. George R. Power, President
Mascony Transport and Ferry Service, Inc.
206 Masonic Building
New Bedford, Massachusetts 02740

Dear Mr. Power:

Following our discussions with the Commissioners at the regular Agency meeting last evening, please be advised that we are pleased with your interest in Shaw Cove redevelopment land in the area of the present Denoia property.

At your request, we would be willing to enter into discussions and negotiations as appropriate with you concerning your interest in the land, and we would be willing to entertain a proposal for development of that land from you and your organization. As we mentioned to you last night, we would be most interested in your plans for proposed use. Rehabilitation of the main building now occupied by Denoia Furniture should be considered in connection with any proposed development plan you will put forward to the Agency.

Sincerely yours,


Robert P. Turk
Executive Director

RPT:jag

bcc: W. Shanahan
W. Kenly
J. Monahan
Agency Commissioners
R-126 Chron. File
✓ Mascony Transport & Ferry Service Developers File

APPENDIX 7

F. JEROME SILVERSTEIN, Chairman
B. WORTON ROSSITER
SEYMOUR S. HENDEL
HUBERT A. NEILAN
ERNEST F. KYDD, JR.

VERNON J. NELSON, Executive Director

NEW
LONDON
CONNECTICUT
REDEVELOPMENT
AGENCY

31 UNION STREET • NEW LONDON, CONNECTICUT 06320 • PHONE: 442-4337

February 23, 1977

Mr. George R. Power, President
Mascony Transport and Ferry Service, Inc.
206 Masonic Building
New Bedford, Massachusetts 02740

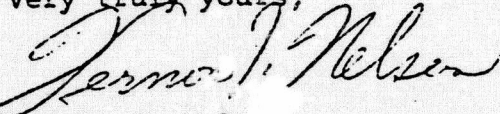
Dear Mr. Power:

At the Agency Meeting of February 16, 1977 the Commissioners agreed to enter into the same agreement with your firm that was made April, 1976. According to our files and the attached letter of April 8, 1976 that agreement is the following:

"We will be willing to enter into discussions and negotiations as appropriate with you concerning your interest in the land, and we would be willing to entertain a proposal for development of that land from you and your organization. We would be most interested in your plans for proposed use. Rehabilitation of the main building now occupied by DeNoia Furniture should be considered in connection with any proposed development plan you will put forward to the Agency"

I am also enclosing a survey map of the area for your use. If the above terms do not agree with your understanding of the previous agreement, please contact me.

Very truly yours,

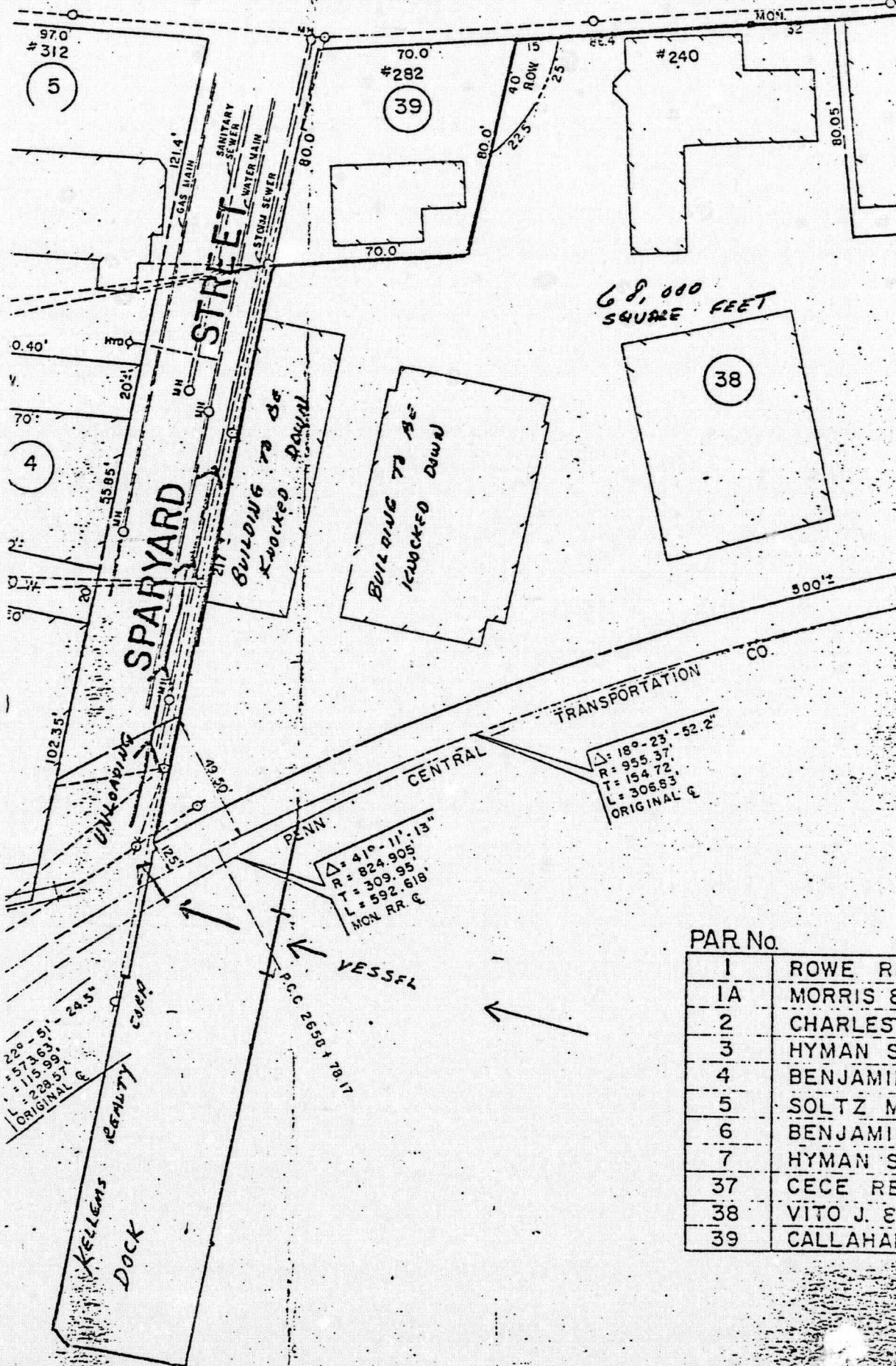


Vernon J. Nelson
Executive Director

encls.

BANK STREET

APPENDIX 5

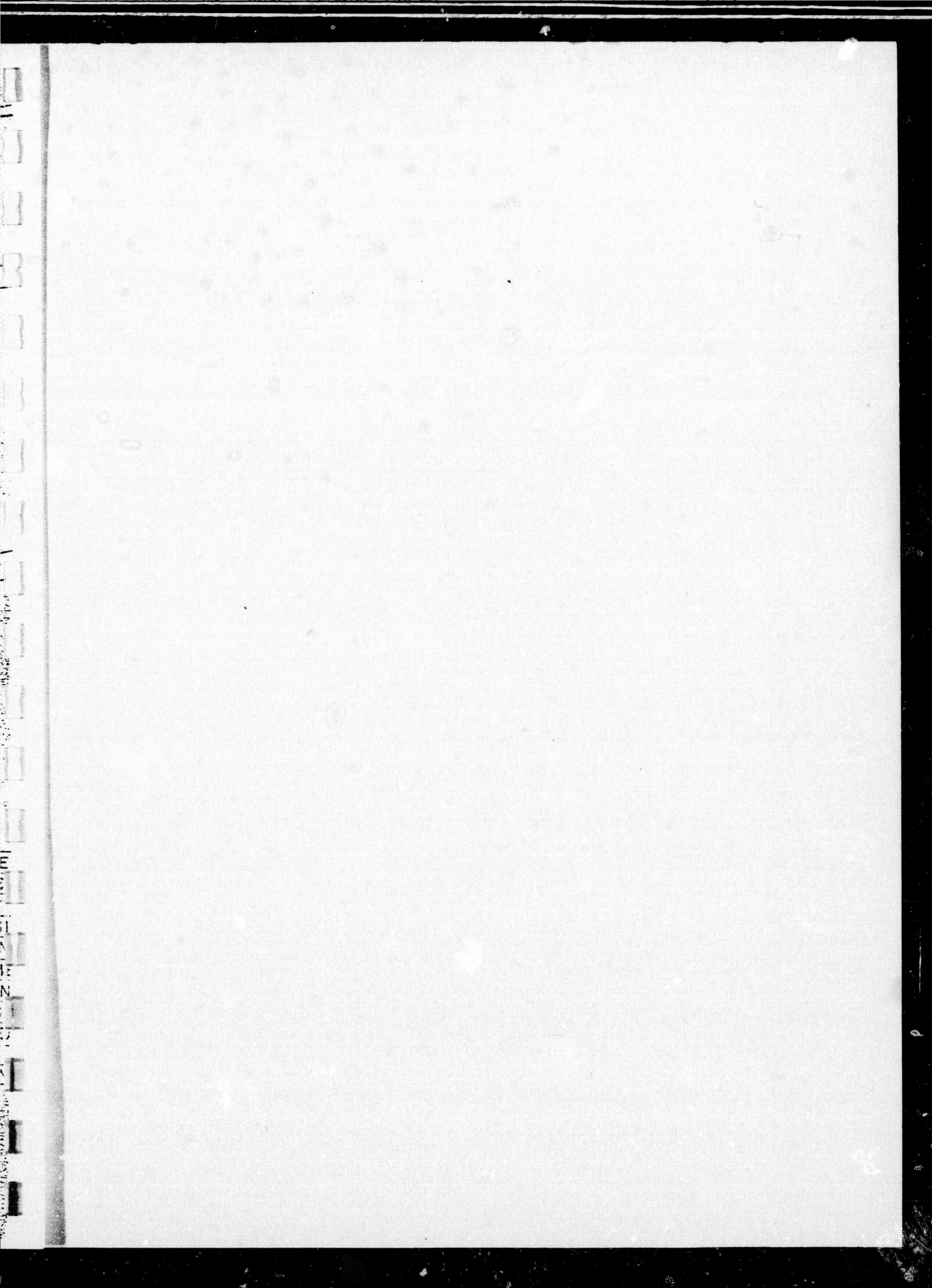


PAR No.

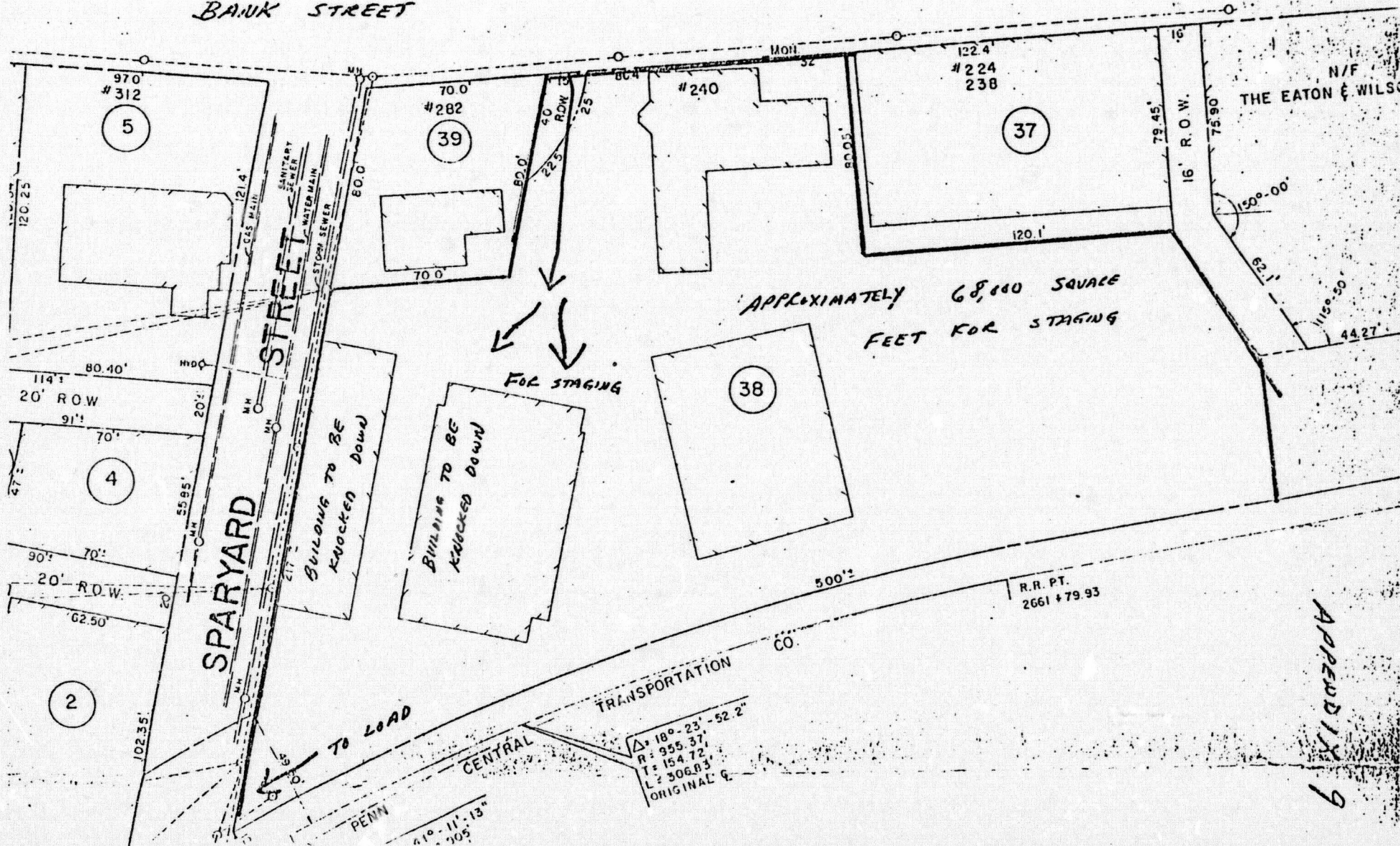
1	ROWE R
1A	MORRIS &
2	CHARLES
3	HYMAN S
4	BENJAMI
5	SOLTZ M
6	BENJAMI
7	HYMAN S
37	CECE RE
38	VITO J. &
39	CALLAHA

NOTE: COMPILED IN PART FROM THE FOLLOWING MAPS:

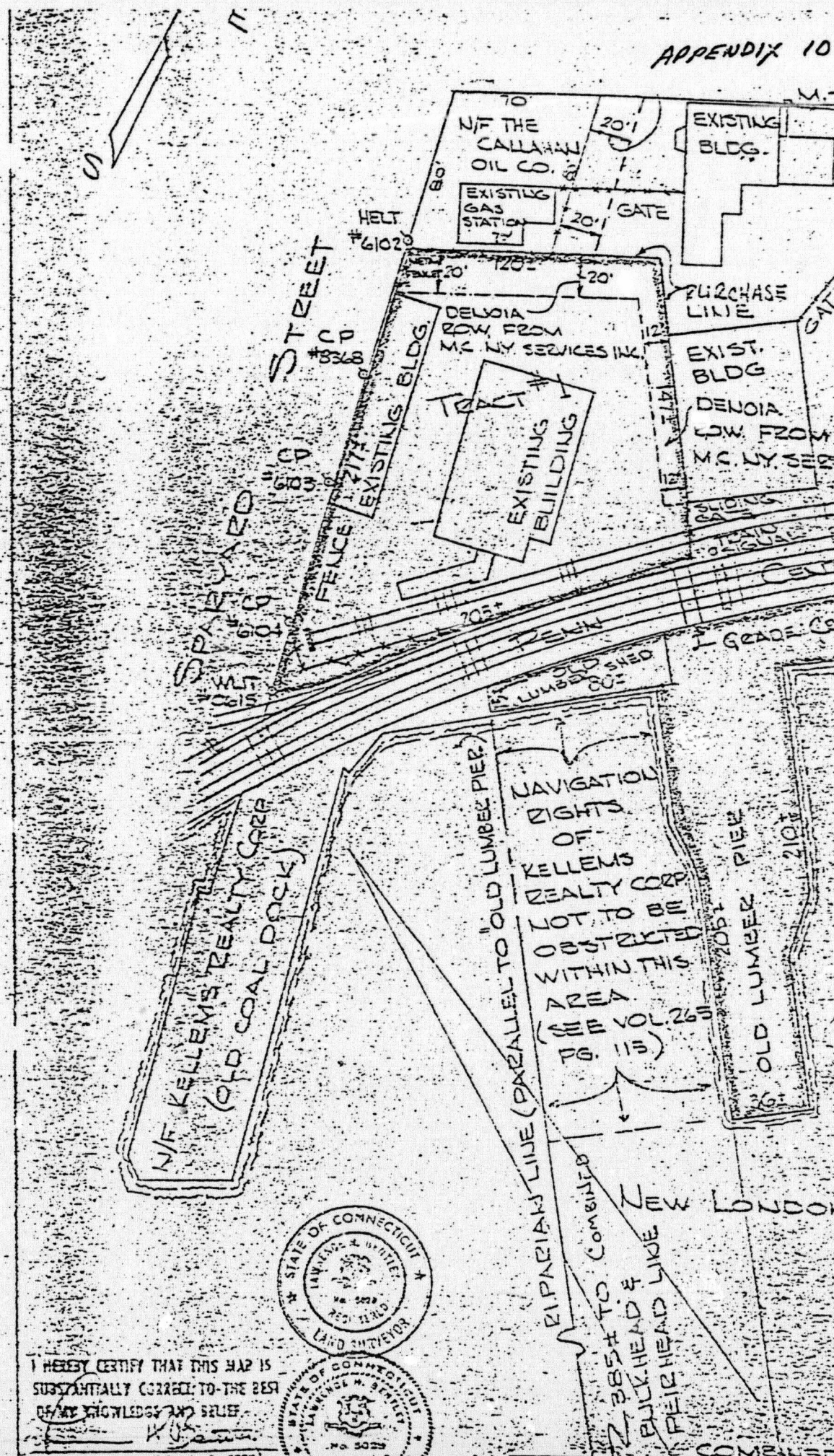
- 1) "PLAN OF PROPERTY ON BANK STREET, NEW LONDON, CONN. BELONGING TO THE NATIONAL BANK OF COMMERCE" MADE IN 1925 BY O'JOLL & CRANDALL CIVIL ENGINEERS AND RECORDED IN MAP BOOK 5 PAGE 43.



BANK STREET



APPENDIX 9



I HEREBY CERTIFY THAT THIS MAP IS
SUBSTANTIALLY CORRECT TO THE BEST
OF MY KNOWLEDGE AND BELIEF.



APPENDIX II

OPTION AGREEMENT

Option given February 3, 1977, by KELLEMS REALTY CORPORATION, a Connecticut corporation with a principal place of business in New London, Connecticut, acting herein by DAVID KELLEMS, its President and duly authorized hereinafter called the Grantor, to MASCONY TRANSPORT AND FERRY SERVICE, INC., a Connecticut corporation having a place of business in New London, Connecticut, acting herein by GEORGE POWER, its President and duly authorized, hereinafter called Grantee.

1. GRANT OF OPTION: The Grantor, in consideration of the sum of ONE THOUSAND (\$1,000.00) DOLLARS, the receipt of which is hereby recognized, hereby gives the Grantee the exclusive option to purchase, upon the following terms and conditions, the real property in New London, Connecticut, hereinafter referred to as the Real Property, more particularly described on Schedule A, attached hereto.

2. TERM AND EXTENDED TERMS OF OPTION: This Option shall continue in effect until noon, June 3, 1977, and may be exercised in accordance with its terms at any time on or before its expiration; provided, however, that this Option shall automatically terminate without any notice from the Grantor to the Grantee on noon, March 3, 1977, if the Grantee does not prior to that time, pay to the Grantor, in addition to the option money paid on the execution of this Option, the further sum of ONE THOUSAND (\$1,000.00) DOLLARS hereinafter called Additional Option Money. Thereafter, this Option shall automatically terminate without any notice from the Grantor to the Grantee at noon on April 3, 1977, if the Grantee does not, prior to that date, pay to the Grantor the further sum of ONE THOUSAND (\$1,000.00) DOLLARS as Second Additional Option Money. Thereafter, this Option shall automatically terminate without any notice from the Grantor to the Grantee at noon on May 3, 1977,

LAW OFFICES
CONWAY, LONDREGAN,
LEUBA AND MCNAMARA
FOUR WHALE OIL ROW
NEW LONDON,
CONNECTICUT 06320
WHITFALL AVENUE
NEW LONDON, CT 06320

if the Grantee does not, prior to that date, pay to the Grantor the further sum of ONE THOUSAND (\$1,000.00) DOLLARS by way of Third Additional Option Money. The exercise of this Option by the Grantee must be written notice sent to the Grantor, prior to noon, June 3, 1977.

3. FAILURE TO EXERCISE THE OPTION: If prior to March 3, 1977, or April 3, 1977, or May 3, 1977, the Grantee has not paid to the Grantor the additional option money prescribed above, the Grantor shall retain absolutely all option money paid on the execution of this Option together with all additional option monies paid as the consideration for this Option during the period from the signing thereof until noon on the day that such additional option money was due. If the Grantee pay the additional option money in accordance with paragraph 2, above, but does not exercise this option prior to noon on June 3, 1977, the Grantor shall retain absolutely the option money and all additional option monies as consideration for this option during the period to noon on June 3, 1977.

4. EXERCISE OF OPTION: If this Option is exercised as herein provided, the Grantor and the Grantee will respectively as Seller and Buyer perform the obligations set forth in the annexed form of agreement to be performed by the Seller and Buyer therein.

5. ASSIGNMENT: This Option and all the rights hereunder shall be freely assignable, and if assigned by the Grantee, any and all acts performable by him hereunder, including the execution and delivery of the option money may be performed by any assignee, whether such assignment is made before or after the exercise of this Option.

IN WITNESS WHEREOF, the parties have signed and acknowledged this Option.

LAW OFFICES
CONWAY, LONDREGAN,
LEUBA AND McNAMARA
FOUR WHALE OIL ROW
NEW LONDON,
CONNECTICUT 06320
WHITEHALL AVENUE
MYSTIC, CONNECTICUT

KELLEMS REALTY CORPORATION
BY David Kellem
DAVID KELLEMS

Francis T. Lohman MASCONY TRANSPORT AND FERRY SERVICE, INC.
Daniel D. Schmitt BY George R. Power
GEORGE POWER

STATE OF CONNECTICUT)
COUNTY OF NEW LONDON) ss: New London

On this the 3rd day of February, 1977, before me,
Daniel D. Schmitt, the undersigned officer, personally
appeared DAVID KELLEMS, who acknowledged himself to be the
President of KELLEMS REALTY CORPORATION and that he as such
President, being authorized so to do, executed the foregoing
instrument for the purposes therein contained by signing the
name of the corporation by himself as President.

IN WITNESS WHEREOF, I hereunto set my hand and official
seal.

Daniel D. Schmitt
Comm. of Sup. Ct.

STATE OF CONNECTICUT)
COUNTY OF NEW LONDON) ss: New London

On this the 3rd day of February, 1977, before me,
Francis T. Lohman, the undersigned officer, personally
appeared GEORGE POWER, who acknowledged himself to be the
President of MASCONY TRANSPORT AND FERRY SERVICE, INC., and
that he as such President, being authorized so to do, executed
the foregoing instrument for the purposes therein contained
by signing the name of the corporation by himself as President.

Francis T. Lohman
Comm. Sup. Court

SCHEDULE A
TO
APPENDIX II

MORTGAGOR: KELLEMS REALTY CORPORATION

ADDRESS OF PROPERTY: Off Bank Street
New London, Connecticut

TO: HARTFORD NATIONAL BANK AND TRUST COMPANY

GENTLEMEN:

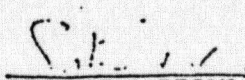
THIS IS TO CERTIFY That we have examined the Land Records of the Town and County of New London, State of Connecticut, for the purpose of a loan of Thirty-Five Thousand (\$35,000.00) Dollars from the Hartford National Bank and Trust Company to TUG LEASING CORPORATION, guaranteed by KELLEMS REALTY CORPORATION, to be secured by a first mortgage on the following described real estate owned by Kellems Realty Corporation, to wit:

A certain piece or parcel of land with the buildings thereon, situated in the Town of New London, County of New London, State of Connecticut, and more particularly bounded and described as follows:

Commencing at the northeasterly corner of the within described tract, at the intersection of the southerly line of land of the New York, New Haven and Hartford Railroad Company and land now or formerly of the Chappell Building Supply Co., at a point in line with the westerly face of the stone foundation of the lumber shed on said Chappell Co. land as presently situated; thence southerly, in line with said foundation and abutting the same in part, to the waters of New London Harbor; thence in a general westerly direction, by and along the waters of New London Harbor to the southwesterly corner of the premises conveyed to the Chappell Building Supply Co. by deed of the Chappell Fuel and Lumber Co., dated June 1, 1954; thence northerly by and along the westerly line of said land so conveyed in said deed to the southerly line of land of the New York, New Haven and Hartford Railroad Co.; thence easterly, by and along said Railroad Co. land to the point and place of beginning.

and that according to the general indexes of said Land Records, we are of the opinion that Kellems Realty Corporation is the owner thereof in fee simple, free from all encumbrances whatsoever except the above mortgage to Hartford National Bank and Trust Company dated July 22, 1976 and recorded in the New London Land Records.

Dated at New London, Connecticut, this 22nd day of June,
A. D. 1976 at 2:24 P.M.


SISTARE & REGAN

APPENDIX 12

ADDENDUM AGREEMENT

Addendum made this 22nd day of April, 1977, to an Option Agreement dated February 3, 1977 by KELLEMS REALTY CORPORATION, a Connecticut corporation with a principal place of business in New London, Connecticut, acting therein and herein by DAVID KELLEMS, its President and duly authorized, hereinafter called the Grantor, and MASCONY TRANSPORT AND FERRY SERVICE, INC., a Connecticut corporation having a place of business in New London, Connecticut, acting therein and herein by GEORGE POWER, its President and duly authorized, hereinafter called the Grantee,

WHEREAS, by the terms of said Option Agreement the option was to continue into effect until noon on June 3, 1977, and

WHEREAS, the Grantee was to pay and has paid ONE THOUSAND DOLLARS (\$1,000.00) for every thirty (30) day period from February 3, 1977, and

WHEREAS, the Parties agree to extend the term of said Option Agreement,

NOW, THEREFORE, it is agreed as follows:

1. The Option shall continue in effect until noon on September 3, 1977, and may be exercised in accordance with its terms at any time on or before its expiration.
2. All other provisions of the Option Agreement including forfeiture provisions shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have signed and acknowledged this Option.

David D. Schwartz
Hyman Wilensky
David D. Schwartz
Hyman Wilensky

KELLEMS REALTY CORPORATION
 BY *D. De Kellems*
 DAVID KELLEMS

MASCONY TRANSPORT AND FERRY
 SERVICE, INC.
 BY *George P. Power*
 GEORGE POWER

LAW OFFICES
 ONWAY, LONGBEACH
 LISA AND HENRIETTA
 FOUR WHARF ON HOLY
 NEW LONDON
 CONNECTICUT 06320
 1001 HALL AVENUE

STATE OF CONNECTICUT)
) ss.:
COUNTY OF NEW LONDON)

On this the 22nd day of April, 1977, before me, *Hyman*
WILANSKY, the undersigned officer, personally appeared
DAVID KELLEMS, who acknowledged himself to be the President
of KELLEMS REALTY CORPORATION and that he as such President,
being authorized so to do, executed the foregoing instrument
for the purposes therein contained by signing the name of
the corporation by himself as President.

IN WITNESS WHEREOF, I hereunto set my hand and official
seal.

Hyman Wilansky
NOTARY PUBLIC
COMMISSION EXPIRES 4-1-81

STATE OF CONNECTICUT)
) ss.:
COUNTY OF NEW LONDON)

On this the 22nd day of April, 1977, before me, *Hyman*
WILANSKY, the undersigned officer, personally appeared
GEORGE POWER, who acknowledged himself to be the President
of MASCONY TRANSPORT AND FERRY SERVICE, INC., and that he
as such President, being authorized so to do, executed the
foregoing instrument for the purposes therein contained by
signing the name of the corporation by himself as President.

IN WITNESS WHEREOF, I hereunto set my hand and official
seal.

Hyman Wilansky
NOTARY PUBLIC
COMMISSION EXPIRES 4-1-81

LAW OFFICES
JIMMY LONDREGAN,
JUNIOR AND MICHAEL J.
JUNIOR, ATTORNEYS AT LAW
NEW LONDON,
CONNECTICUT 06320
TELEPHONE (404) 541-1111

VERIFIED STATEMENT
OF.
WILLIAM L. BERTENSHAW

My name is William Bertenshaw. I reside at 19 L. vague Ave. Lincoln, Rhode Island. I am a stockholder of Mascony Transport and Ferry Service, Inc.

I am one of the grantees in a certain deed executed by Mascony Transport and Ferry Service, Inc., wherein said deed describes certain property located in Greenport, Long Island, and more commonly known as the "Bohack" property.

The other grantees of that property are Henry Luke, Ernest Cordeiro, Edwin E. Davies, Jr., and John Andreoni. Each of these parties are also stockholders in Mascony Transport and Ferry Service Inc.

In view of the fact that an extended period of time has elapsed from the time that Mascony filed its application before the Interstate Commerce Commission, it was necessary for Mascony to acquire additional cash to continue to remain a viable corporation,

As a result, I and the other stockholders named above, collectively paid to Mascony a sum of money as consideration for the deed of the "Bohack" property, and we are acting in the capacity of caretakers of the the property until such time as Mascony Transport and Ferry Service can redeem this property. Meanwhile, I and the co-owners of the property have agreed to allow Mascony Transport and Ferry Service, Inc., to use the propeety when they commence operation until such time that the property is

(Continue next Page)

reconveyed to Mascony Transport and Ferry Service, Inc.

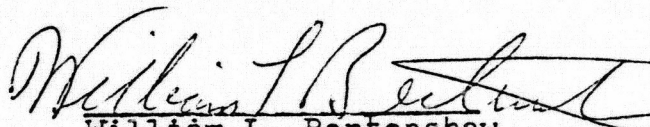
Respectfully submitted


William L. Bertenshaw

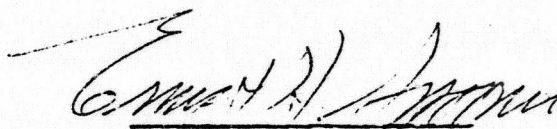
VERIFICATION

COUNTY OF: Providence
STATE OF: Rhode Island

William L. Bertenshaw, being duly sworn, deposes and says that he has read the foregoing statement, knows the contents thereof, and that the same are true as stated.


William L. Bertenshaw

Subscribed and sworn to before me, a notary public, this
21st day of April 1977.


Notary Public

My Commission Expires _____

(SEAL)

Verified Statement
Of
Henry Luke

My name is Henry Luke. I reside at old Louisquisset Pike, Lincoln, Rhode Island. I am a stockholder of Mascony Transport and Ferry Service, Inc.

I am one of the grantees in a certain deed executed by Mascony Transport and Ferry Service, Inc., wherein said deed describes certain property located in Greenport, Long Island, and more commonly known as the "Bohack" property.

The other grantees of that property are William Bertenshaw, Ernest Cordeiro, Edwin E. Davies, Jr., and John Andreoni.

Each of these parties are also stockholders in Mascony Transport and Ferry Service Inc.

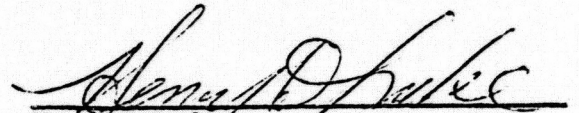
In view of the fact that an extended period of time has elapsed from the time that Mascony filed its application before the Interstate Commerce Commission, it was necessary for Mascony to acquire additional cash to continue to remain a viable corporation.

As a result, I and the other stockholders named above, collectively paid to Mascony a sum of money as consideration for the deed of the "Bohack" property, and we are acting in the capacity of caretakers of the property until such time as Mascony Transport and Ferry Service can redeem this property. Meanwhile, I and the co-owners of the property have agreed to allow Mascony Transport and Ferry Service, Inc., to use the property when they commence operation until such time that the property is

(Continue next Page)

reconveyed to Mascony Transport and Ferry Service, Inc.

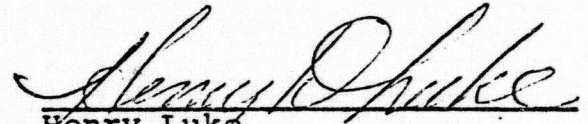
Respectfully submitted,


Henry Luke

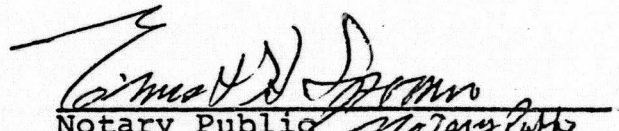
VERIFICATION

COUNTY OF: Providence
STATE OF: Rhode Island

Henry Luke, being duly sworn, deposes and says that he has read the foregoing statement, knows the contents thereof, and that the same are true as stated.


Henry Luke

Subscribed and sworn to before me, a notary public,
this 21st day of April 1977.


Notary Public *Notary Public*

My Commission Expires _____

(SEAL)

Verified Statement
Of
Ernest Cordeiro

My name is Ernest Cordeiro, I reside at 190 Nanaquaket Rd. Tiverton, Rhode Island. I am a stockholder of Mascony Transport and Ferry Service, Inc.

I am one of the grantees in a certain deed executed by Mascony Transport and Ferry Service, Inc., wherein said deed describes certain property located in Greenport, Long Island, and more commonly known as the "Bohack" property.

The other grantees of that property are Henry Luke, William Bertenshaw, Edwin E. Davies, Jr., and John Andreoni. Each of these parties are also stockholders in Mascony Transport and Ferry Service Inc.

In view of the fact that an extended period of time has elapsed from the time that Mascony filed its application before the Interstate Commerce Commission, it was necessary for Mascony to acquire additional cash to continue to remain a viable corporation,

As a result, I and the other stockholders named above, collectively paid to Mascony a sum of money as consideration for the deed of the "Bohack" property, and we are acting in the capacity of caretakers of the property until such time as Mascony Transport and Ferry Service can redeem this Property. Meanwhile, I and the co-owners of the property have agreed to allow Mascony Transport and Ferry Service, Inc. to use the property when they commence operation until such time that the property is

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reconveyed to Mascony Transport and Ferry Service, Inc.

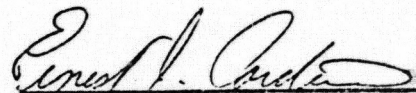
Respectfully submitted,


Ernest Cordeiro

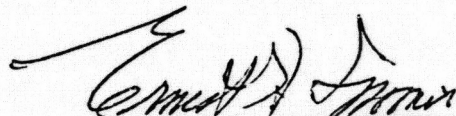
VERIFICATION

COUNTY OF: Providence
STATE OF: Rhode Island

Ernest Cordeiro, being duly sworn, deposes and says that he has read the foregoing statement, knows the contents thereof, and that the same are true as stated.


Ernest Cordeiro

Subscribed and sworn to before me, a notary public, this 21st day of April 1977.


Notary Public

My Commission Expires _____

(SEAL)

VERIFIED STATEMENT
OF
EDWIN E. DAVIES, JR.

My name is Edwin E. Davies, Jr. I reside at Leigh Road, Cumberland, Rhode Island. I am a stockholder and director of Mascony Transport and Ferry Service, Inc.

I am one of the grantees in a certain deed executed by Mascony Transport and Ferry Service, Inc. wherein said deed describes certain property located in Greenport, Long Island, and more commonly known as the "Bohack" property.

The other grantees of that property are William Bertenshaw, Henry Luke, Ernest Cordeiro, and John J. Andreoni. Each of these parties are also stockholders in Mascony Transport and Ferry Service, Inc.

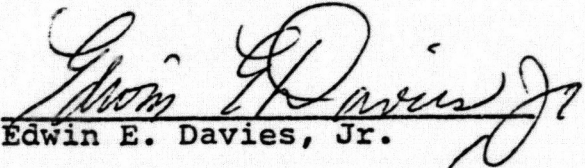
In view of the fact that an extended period of time has elapsed from the time that Mascony filed its application before the Interstate Commerce Commission, it was necessary for Mascony to acquire additional cash to continue to remain a viable corporation.

As a result, I and the other stockholders named above, collectively paid to Mascony a sum of money as consideration for the deed of the "Bohack" property and we are acting in the capacity of caretakers of the property until such time as Mascony Transport and Ferry Service can redeem this property. Meanwhile, I and the co-owners of the property have agreed to allow Mascony Transport and Ferry Service, Inc. to use the property when they commence operation until such time that the property is

(Continued on next page)

reconveyed to Mascony Transport and Ferry Service, Inc.

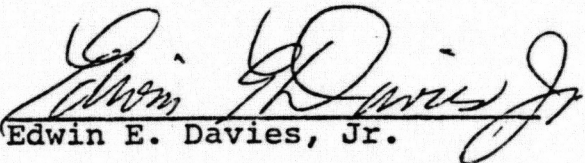
Respectfully submitted,


Edwin E. Davies, Jr.

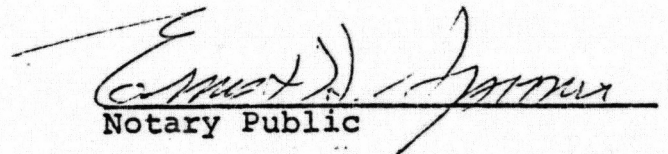
VERIFICATION

COUNTY OF: Providence
STATE OF: Rhode Island

Edwin E. Davies, Jr., being duly sworn, deposes and says that he has read the foregoing statement, knows the contents thereof, and that the same are true as stated.


Edwin E. Davies, Jr.

Subscribed and sworn to before me, a notary public, this 26th day of April 1977.


Notary Public

My Commission Expires _____

(SEAL)

VERIFIED STATEMENT
OF
JOHN J. ANDREONI

My name is John J. Andreoni. I reside at 7 Ridgefield Road, Lincoln, Rhode Island. I am a stockholder and director of Mascony Transport and Ferry Service, Inc.

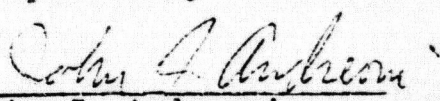
I am one of the grantees in a certain deed executed by Mascony Transport and Ferry Service, Inc. wherein said deed describes certain property located in Greenport, Long Island, and more commonly known as the "Bohack" property.

The other grantees of that property are William Bertenshaw, Henry Luke, Ernest Cordeiro, and Edwin E. Davies. Each of these parties are also stockholders in Mascony Transport and Ferry Service, Inc.

In view of the fact that an extended period of time has elapsed from the time that Mascony filed its application before the Interstate Commerce Commission, it was necessary for Mascony to acquire additional cash to continue to remain a viable corporation.

As a result, I and the other stockholders named above, collectively paid to Mascony a sum of money as consideration for the deed of the "Bohack" property and we are acting in the capacity of caretakers of the property until such time as Mascony Transport and Ferry Service can redeem this property. Meanwhile I and the co-owners of the property have agreed to allow Mascony Transport and Ferry Service, Inc. to use the property when they commence operation until such time that the property is reconveyed to Mascony Transport and Ferry Service, Inc.

Respectfully submitted


John J. Andreoni

VERIFICATION

COUNTY OF: Providence
STATE OF: Rhode Island

John J. Andreoni, being duly sworn, deposes and says that he has read the foregoing statement, knows the contents thereof, and that the same are true as stated.

John J. Andreoni
John J. Andreoni

Subscribed and sworn to before me, a notary public, this
21st day of April 1977.

Ernest J. Dwyer
Notary Public

My Commission Expires _____

(SEAL)

VERIFIED STATEMENT
OF
DAVID KELLEM

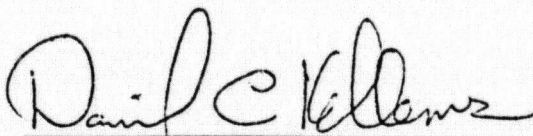
My name is David Kellem. I am President of Kellems Realty Corp., Foot of Sparyard Street, New London, Connecticut.

Kellems Realty Corp. has entered into an agreement with Mascony Transport and Ferry Service, Inc. with respect to an option to purchase by Mascony of the dock at the Foot of Sparyard Street, New London, Connecticut, and known as Kellems Realty Corp. Dock.

Pursuant to the agreement with Mascony, Kellems Realty Corp. has granted to Mascony, the option to acquire the docking facility and site.

Under the terms of the option agreement, \$1,000 per month is being paid to Kellems by Mascony. At the execution of a purchase and sale agreement, all sums paid to Kellems Realty Corp. during the term of the option shall be applied to the purchase price and at the time of the execution of the purchase and sale agreement, Mascony will also pay an additional \$10,000.00. Kellems Realty Corp. will, upon expiration of the option agreement, extend the option agreement at Mascony's request.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "David C. Kellem", is written over a horizontal line.

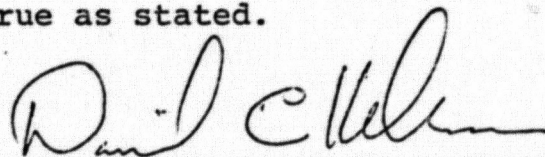
DAVID KELLEM, President

VERIFICATION

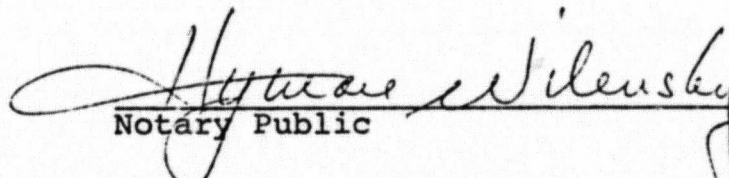
COUNTY OF: New London

STATE OF: Connecticut

David Kellem, being duly sworn, deposes and says that he has read the foregoing statement, knows the contents thereof, and that the same are true as stated.


David Kellem

Subscribed and sworn to before me a notary public this 22nd day of April, 1977.


Notary Public

My Commission Expires: April 1, 1981

(SEAL)



VERIFIED STATEMENT

OF

VERNON J. NELSON

My name is VERNON J. NELSON. I am the Executive Director of the Redevelopment Agency of The City of New London, 31 Union Street, New London, Connecticut 06320.

The Redevelopment Agency of The City of New London is responsible for the development of that area of New London, Connecticut known as Shaw's Cove. The general title of the area is known as "Shaw's Cove Urban Renewal Project."

The Redevelopment Agency of The City of New London has acquired and is continuing to acquire certain land located in the above described project. Portions of the land are known as DeNoia, Charles Suisman, Hyman Siff and Benjamin Steinman properties. A more accurate description of the property would be those parcels on the Southeast corner of Bank and Sparyard Streets and the Northeast corner of Sparyard Street and the Penn Central Railroad tracks. The major portion of this land extends from Bank Street to the Penn Central Transportation Company tracks. Directly opposite the track is the Kellems Realty Corporation dock.

The Redevelopment Agency of The City of New London has entered into negotiations with Mascony Transport and Ferry Service, Inc., wherein Mascony Transport and Ferry Service, Inc. will acquire approximately 72,000 square feet of the land in the above described area for the purposes of a staging area for the loading of vehicles in connection with Mascony's proposed ferry operations.

The cost for the device will be obtained from Federal Highway Administration and redevelopment project expenditures. The Utilization of the land for the proposed ferry service is ideal in view of the fact that it is contiguous to the shore line and conforms to the overall redevelopment plan of the Redevelopment Agency of The City of New London with respect to that area known as Shaw's Cove. Mascony Transport and Ferry Service, Inc. presently has an option to purchase the aforementioned property.

Vernon J. Nelson

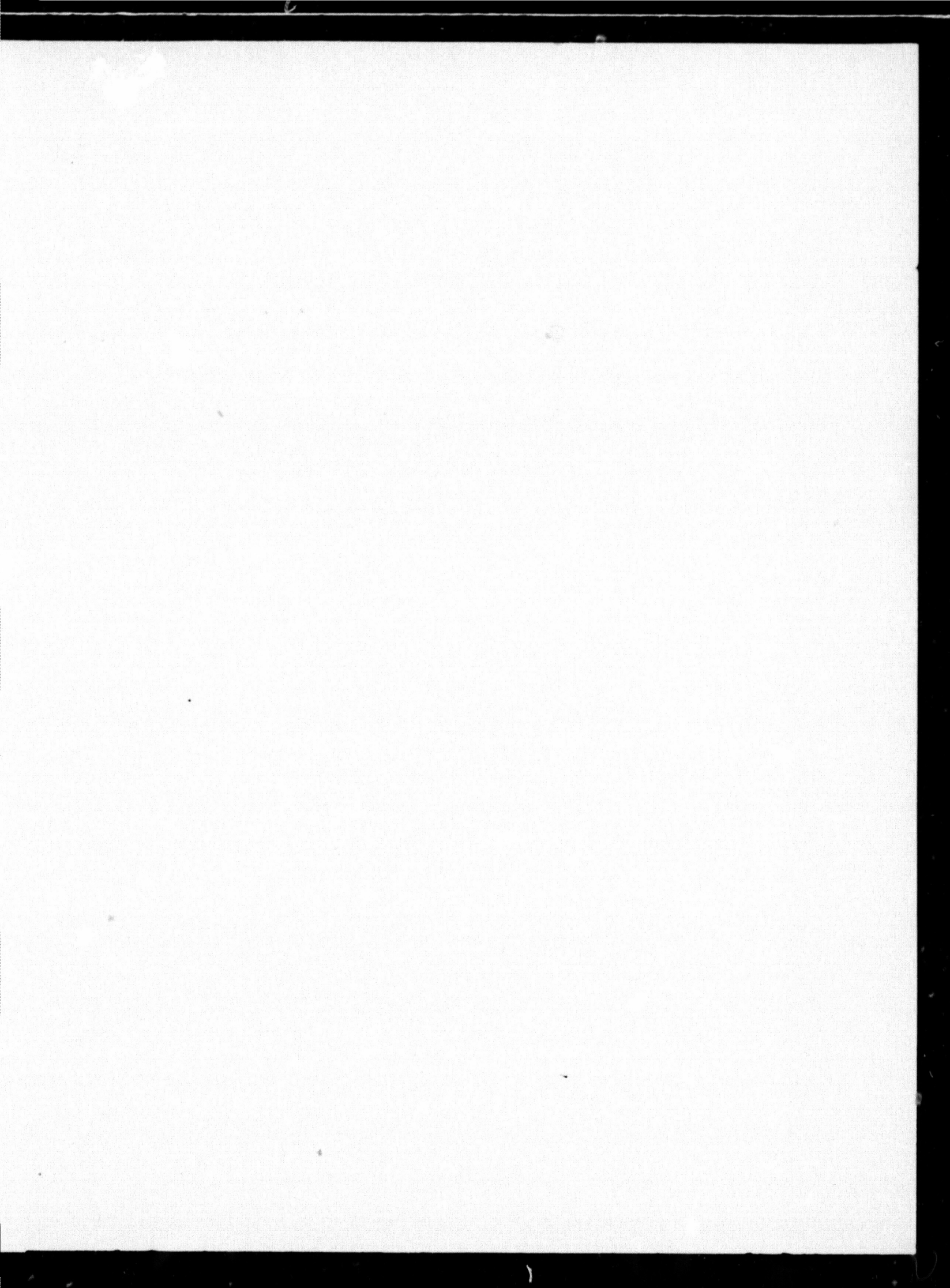
STATE OF CONNECTICUT)
COUNTY OF NEW LONDON) ss.:

ated.

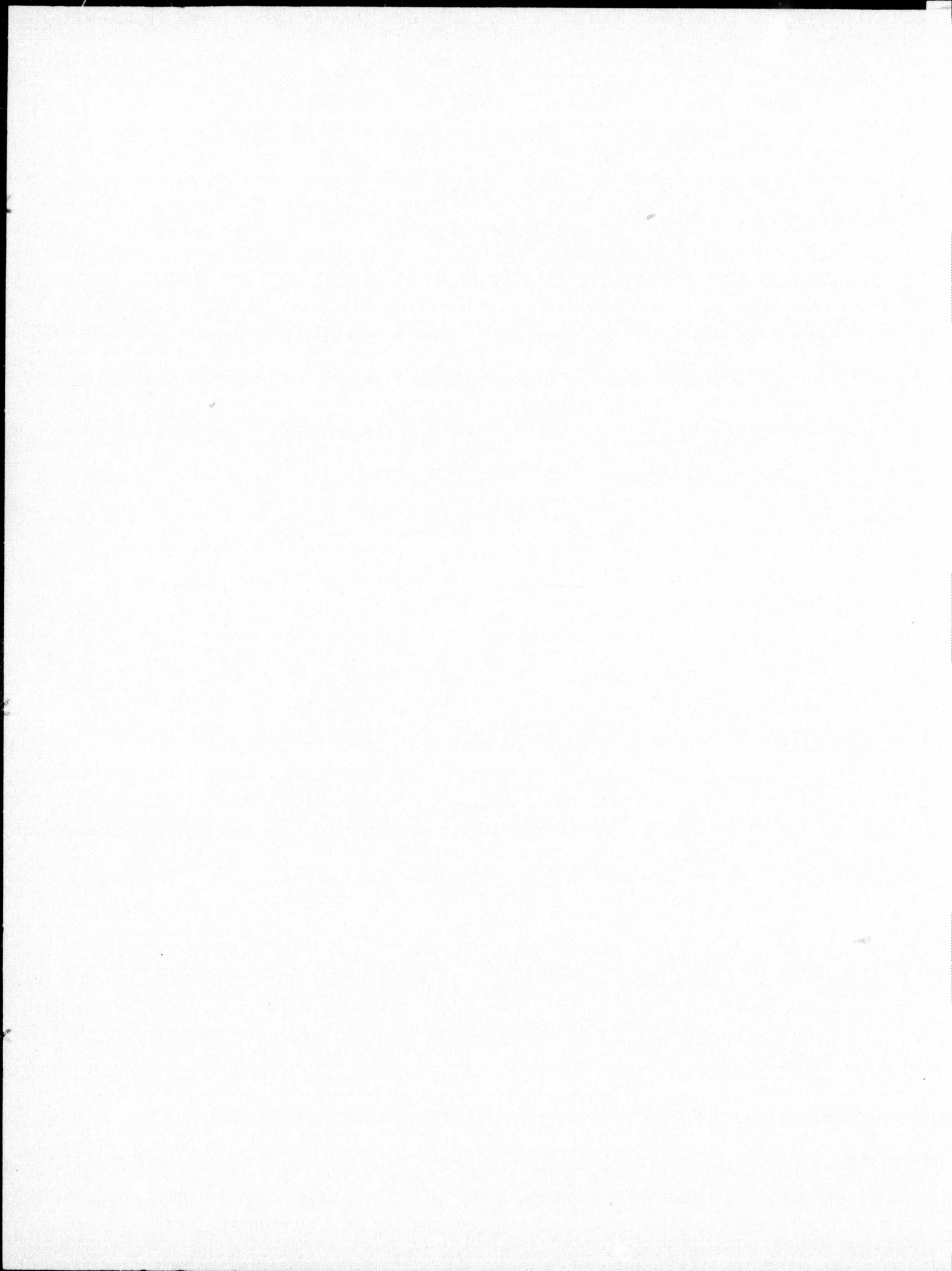

 Vernon J. Nelson

William H Shanahan, Jr.
Notary Public

My Commission Expires MARCH 31, 1931



DOCUMENT 359



BEFORE THE
INTERSTATE COMMERCE COMMISSION
IN THE MATTER OF
MASCONY TRANSPORT AND FERRY SERVICE, INC.
- INITIAL OPERATIONS -
NEW LONDON TO GREENPORT, L.I., N.Y.

DOCKET NO. W-1270

VERIFIED STATEMENT IN REPLY

HARRY J. MITCHELL and PAULINE MITCHELL,
Intervenors.

By Richard E. DePetrìs
220 Roanoke Avenue
P. O. Box 599
Riverhead, New York 11901

Their Attorney

DUE DATE: May 18, 1977

CERTIFICATE OF SERVICE

I hereby certify that I have this 16 day of May 1977, served a copy of the attached verified statement and appendices upon all parties of record in this proceeding, by mailing, by first class mail, postage prepaid, a copy thereof, properly addressed to each.

Richard E. DePetrìs

Richard E. DePetrìs

VERIFIED STATEMENT
OF
RICHARD E. DePETRIS

I, RICHARD E. DePETRIS, am the attorney for Harry J. Mitchell and Pauline Mitchell, who were granted permission to intervene in this proceeding by the order of the Interstate Commerce Commission, Division 1, dated April 5, 1977. This verified statement is submitted in reply to the verified statement of George R. Power, President of the applicant, pursuant to said order of the Interstate Commerce Commission.

As indicated in the petition for reconsideration and the petition for leave to intervene heretofore served and filed by Harry J. Mitchell and Pauline Mitchell (hereinafter referred to as Intervenor), in June of 1976 said Intervenor commenced an action in the Supreme Court of the State of New York, County of Suffolk, against the applicant (hereinafter referred to as Mascony), and Advine Realty Corp. (hereinafter referred to as Advine) for a judgment declaring that the leases relied on by Mascony are invalid and of no further force or effect as against Intervenor and their property. I am one of the attorneys representing Intervenor in said action, and I am fully familiar with the pleadings and proceedings had therein.

There is annexed, as Appendix 3 to the verified statement of George R. Power, a copy of the decision of the Supreme Court on a motion by the Intervenors for a preliminary injunction and a cross-motion by Mascony for summary judgment. In said verified statement, Power refers to said decision and states that, in essence, Mascony now has full use of the property shown on appendices 1 and 2. Said statement is grossly false and/or misleading.

In said decision, the Supreme Court held that there were factual issues requiring a trial which precluded the granting of a preliminary injunction. The denial of the motion for a preliminary injunction does not mean that Mascony now has full use of said property. A preliminary injunction is considered to be an extraordinary remedy, and the court simply declined to grant such an extraordinary remedy because of the existence of factual issues requiring a trial. This simply means that the Supreme Court declined to give any affirmative relief to plaintiffs to maintain the status quo. However, since plaintiffs are in possession of said property, it is clear that the denial of the preliminary injunction does not mean that Mascony has full use of said property. Indeed, if Mascony were to seek an injunction from the court enjoining plaintiffs from ^{interfering with} any use of said property which Mascony might attempt, the court would presumably deny such relief for the same reason - that there are factual issues requiring a trial.

Furthermore, the verified statement of Power ignores the fact that the Supreme Court also denied Mascony's cross-motion for summary judgment. As shown in said decision, Mascony made a cross-motion for summary judgment dismissing the Intervenor's complaint and declaring the leases to be in full force and effect and binding on the Intervenor. The Supreme Court held that there were factual issues requiring a trial which precluded the granting of summary judgment to Mascony. In this connection, the court noted that a trial was essential to test the credibility of witnesses. In other words, the court held that the Intervenor had submitted evidence which, if found credible at a trial, may entitle the Intervenor to judgment in their favor. Thus, insofar as said decision is relevant to this proceeding before the Interstate Commerce Commission, said decision establishes that there is at the very least substantial doubt as to whether Mascony's proposed terminal and docking site in Greenport will ever be available to Mascony.

I submit as Appendix 1 a copy of the transcript of the examination before trial of John A. O'Keefe, Esq., taken in said action, together with the exhibits marked for identification during said examination. Said testimony of O'Keefe establishes prima facie, among other things, that the Intervenor never intended or agreed to subordinate their mortgage to the lease between Advine and Mascony which purports to lease the right-of-way proposed to

be utilized by Mascony as an exit from the ferry slip. If such testimony is found to be credible at a trial, the land proposed to be utilized by Mascony for the exit may never be available to Mascony. And in the absence of a suitable exit it seems clear that the Interstate Commerce Commission could not grant Mascony's application.

Appendix 2 annexed to the verified statement of Power shows a proposed exit running from the ferry slip in an easterly direction behind the restaurant building, and then running in a northerly direction out to Front Street at a point opposite First Street. Said proposed exit is also shown on Figure 4 annexed to the Final Environmental Impact Statement filed with the Commission. Both said Appendix 2 and said Figure 4 fail to show and disclose the existence of the motel building situate on the Intervenor's property, which motel building severely limits the width of the exit (right-of-way) at the point where it runs in an easterly direction between the motel building on the North, and the bulkhead on the South.

Schedule A annexed to the lease between Advine and Mascony (which schedule is contained in the appendices annexed hereto) shows the existence and location of said motel building. Annexed hereto as Appendix 2 are copies of photographs which show the motel structure and the bulkhead to the South of the motel

structure. Said photographs show that ferry traffic utilizing the proposed exit will have to pass very close to the bulkhead. Since neither Appendix 2 annexed to the verified statement of Power, nor Figure 4 annexed to the Final Environmental Impact Statement show the motel building, it may be the Interstate Commerce Commission has not considered the effect on the bulkhead of heavy ferry traffic utilizing the proposed exit at that point.

As shown by Appendix 4 annexed to the verified statement of Power, Mascony proposes to install dolphins in front of existing piers (plural). As shown by the testimony of John A. O'Keeffe, the only lease with respect to which the Intervenor did intend and agree to subordinate their mortgage does not lease the right-of-way proposed to be utilized as an exit and does not lease any pier other than the westerly pier. If the testimony of John A. O'Keeffe is found to be credible at a trial, it may be that Mascony may never have the right to install dolphins in the locations proposed by Mascony.

It is my understanding that the Commission cannot properly grant Mascony's application unless Mascony establishes the availability of a suitable terminal and docking site in Greenport. At the very least, the Intervenor has established that there is substantial doubt as to whether a suitable terminal and docking

site is available to Mascony in Greenport. The Supreme Court decision submitted by Mascony establishes the existence of factual issues requiring a trial on this question, and Appendix 1 annexed hereto shows that the Intervenorors have substantial evidentiary support for their claim on this question. (Since the Supreme Court held that a trial was necessary, no purpose would be served by submitting to the Commission other evidence, such as affidavits of the Intervenorors, on this question.) Under these circumstances, it is respectfully submitted that Mascony has failed to establish the availability of a suitable terminal and docking site in Greenport, and thus that the Commission should not grant Mascony's application.

Respectfully submitted,

Richard E. DePetris
Richard E. DePetris

VERIFICATION

COUNTY OF: SUFFOLK

STATE OF: NEW YORK

Richard E. DePetris, being duly sworn, deposes and says that he has read the foregoing statement, knows the contents thereof, and that the same are true as stated.

Richard E. DePetris

Richard E. DePetris

Subscribed and sworn to before me, a notary public, this
16 day of May 1977.

MARY BEDINGER
NOTARY PUBLIC, State of New York
No. 52-0218825 - Suffolk County
Commission Expires March 30, 1979

Mary Bedinger

Notary Public

My Commission Expires: March 30, 1979

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK.

HARRY MITCHELL, also known as HARRY
J. MITCHELL, and PAULINE MITCHELL,

Plaintiffs,

- against -

ADVINE REALTY CORPORATION and
MASCONY TRANSPORT AND FERRY SERVICE,
INC.,

Defendants.

220 Roanoke Avenue
Riverhead, N. Y.
October 26, 1976.

(Examination before trial of JOHN A. O'KEEFFE
taken by the Attorneys for the Plaintiffs,
pursuant to notice, before Lloyd G. Record,
a Notary Public of the State of New York).

APPEARANCES:

SCHEINBERG, WOLF, LAPHAM, DePETRIS
and PRUZANSKY, ESQS.,
Attorneys for the Plaintiffs,
220 Roanoke Avenue,
Riverhead, New York 11901.
By: RICHARD E. DePETRIS, ESQ.

JOHN A. O'KEEFFE, residing at Quogue,
New York, having been first duly sworn
by Lloyd G. Record, a Notary Public of
the State of New York, was examined
and testified as follows:

EXAMINATION BY

MR. DePETRIS:

Q Mr. O'Keefe, what is your occupation?

A Lawyer.

Q Are you admitted to practice in the State of New
York?

A Yes.

Q How long have you been so admitted?

A 1926.

Q Since 1926?

A Right.

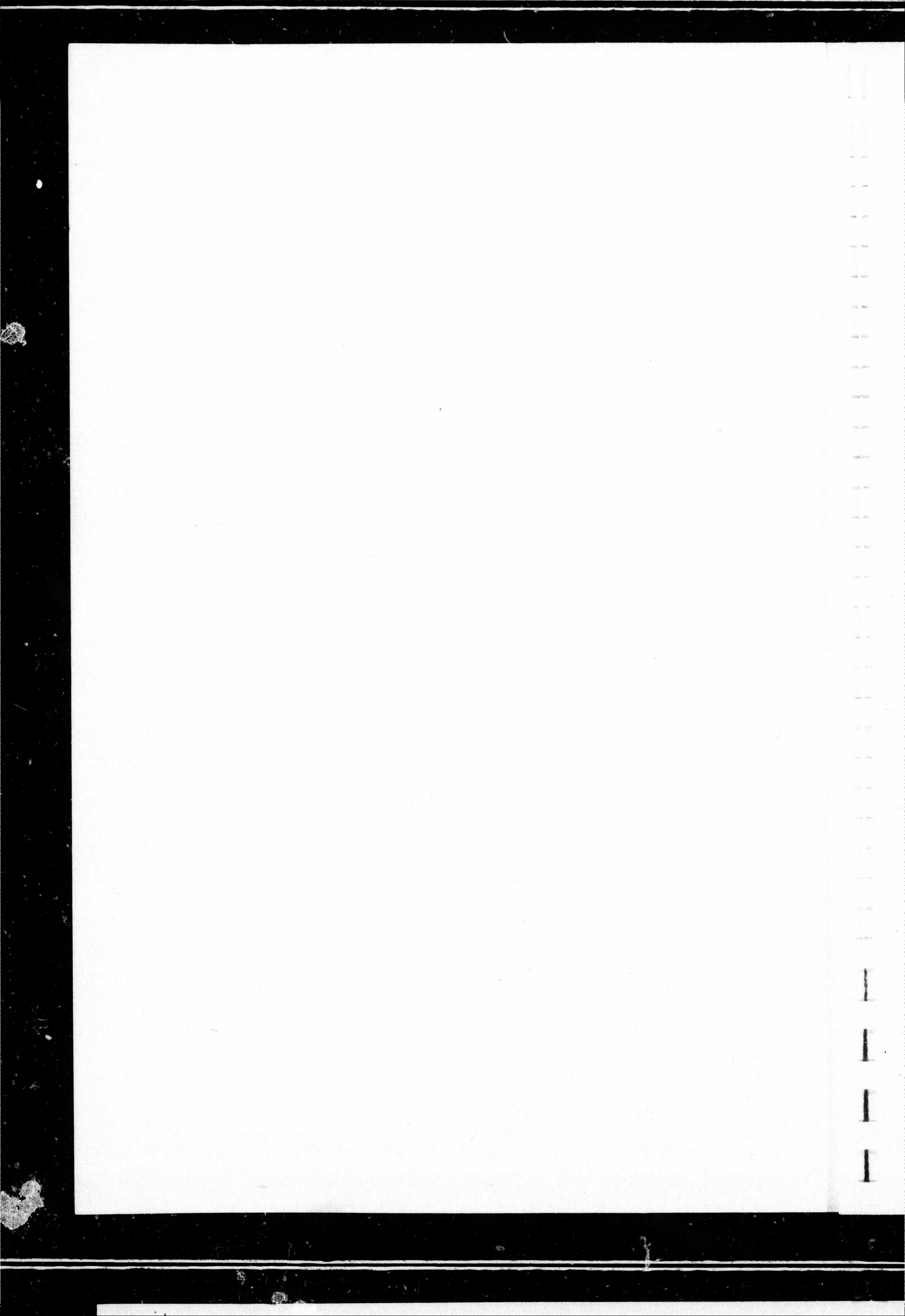
Q Where do you maintain your office for the prac-
tice of law?

A 120 Court Street, Riverhead, New York.

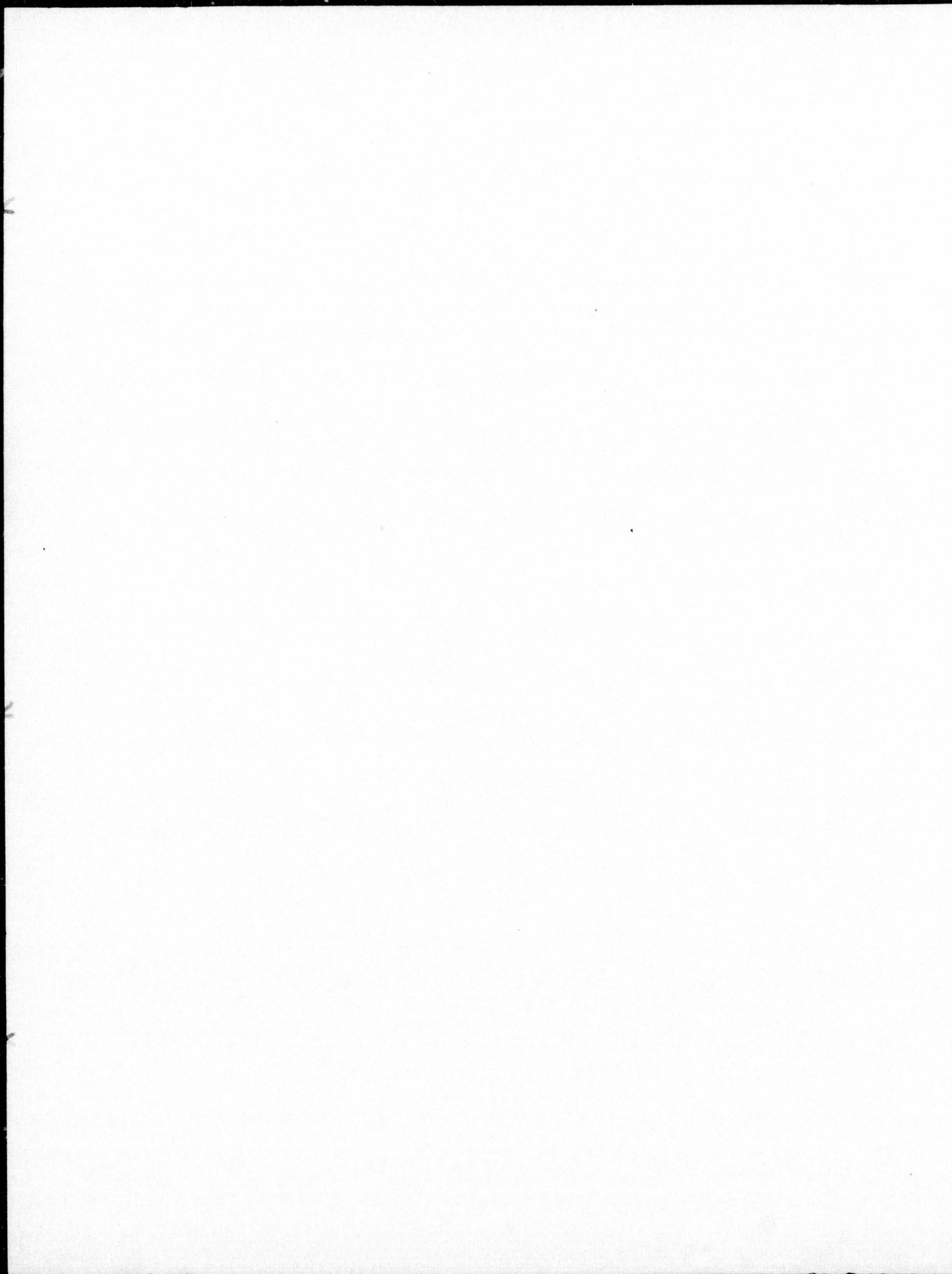
Q How long have you maintained your office there?

A Since about 1941 but I have been in Riverhead
since 1928.

Q Do you know the Plaintiffs in this action, Harry
and Pauline Mitchell?



DOCUMENT 361



Before the
INTERSTATE COMMERCE COMMISSION



Docket No. W-1270

MASCONY TRANSPORT AND FERRY SERVICES, INC.

- INITIAL OPERATIONS -

NEW LONDON TO GREENPORT, L.I., NEW YORK

REPLY TO
STATEMENTS OF APPLICANT FILED PURSUANT
TO THE COMMISSION'S ORDER OF APRIL 5, 1977

CROSS-SOUND FERRY SERVICES, INC.

By Peter A. Greene

Its Attorney

of counsel:

CALDWELL & GREENE
404 Farragut Building
900 Seventeenth Street, N. W.
Washington, D. C. 20006

Dated: May 18, 1977

Before the
INTERSTATE COMMERCE COMMISSION

Docket No. W-1270
MASCONY TRANSPORT AND FERRY SERVICES, INC.
- INITIAL OPERATIONS -
NEW LONDON TO GREENPORT, L.I., NEW YORK

REPLY TO
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Dated: May 18, 1977

Before the
INTERSTATE COMMERCE COMMISSION

Docket No. W-1270

MASCONY TRANSPORT AND FERRY SERVICES, INC.

- INITIAL OPERATIONS -

NEW LONDON TO GREENPORT, L.I., NEW YORK

REPLY TO
STATEMENTS OF APPLICANT FILED PURSUANT
TO THE COMMISSION'S ORDER OF APRIL 5, 1977

Comes now Cross-Sound Ferry Services, Inc., P. O. Box 33, New London, Connecticut, (hereinafter "Cross-Sound") protestant herein, and submits this reply to the statements of applicant filed pursuant to the Commission's order of April 5, 1977.

I

PRELIMINARY STATEMENT

By application filed May 29, 1973, Mascony Transport and Ferry Services, Inc. ("Mascony") sought authority from the

18

Commission:

to engage in operation, in interstate or foreign commerce, as a common carrier by water in the transportation of general commodities and passengers by self-propelled vessels, between the ports of New London, Conn., and Greenport, Long Island, N.Y.;

Protests were duly filed by several parties including New London Freight Lines, Inc. ("NLFL"), the predecessor in interest to Cross-Sound.

Extensive hearings were held in which NLFL actively participated. Briefs were filed by various parties including NLFL and, on June 19, 1974, an initial decision denying the application was issued by Judge Allard, the administrative law judge who presided over the reception of evidence. On August 19, 1975, Mascony filed exceptions to Judge Allard's decision and petitioned the Commission to reopen the record for receipt of additional evidence intended to correct basic omissions in its case. Responses were filed to applicant's exceptions and petition on September 30, 1974.

While this proceeding was pending on exceptions the Commission, in Finance Docket No. 27846, authorized transfer to Cross-Sound of that portion of the operating authority whereby NLFL was authorized to provide service between New London, Conn., and Orient Point, N.Y. That transaction was consummated on May 23, 1975, and Cross-Sound has been providing service under such acquired authority since that date.

By order served October 22, 1975, the Commission reopened this proceeding for receipt of certain supplemental material submitted by applicant and to consider the environmental effects of the proposed service. On October 29, 1975, Cross-Sound duly filed a motion to have itself substituted as a party in this proceeding as successor in interest to NLFL. On November 21, 1975, Cross-Sound also filed a petition for reconsideration of the order of October 22, 1975, and a petition to reopen the record for receipt of further evidence in response to the further evidence of applicant that was received by the Commission under the terms of the order of October 21, 1975.

On November 19, 1976, the Commission issued a decision in which a majority of Division 1: (1) granted Cross-Sound's motion to substitute itself for NLFL; (2) denied Cross-Sound's petition to reopen the record to allow Cross-Sound to submit evidence in response to the late-filed evidence of Mascony; and (3) directed that a three year term certificate should be issued to Mascony.

On December 20, 1976, Cross-Sound, among others, filed a petition for reconsideration of the grant of authority to Mascony. On January 10, 1977, Mascony filed its reply to that petition and on February 1, 1977, Mascony filed its supplemental reply.

By order entered April 5, 1977, and served on April 8, 1977, the Commission granted the petitions of various parties for leave to intervene in opposition to the application and ordered:

That April 28, 1977, be, and it is hereby, fixed as the date on or before which applicant may submit additional evidence in the form of verified statements regarding docking, staging, and loading sites at Greenport, N.Y., and New London, Conn.; and that May 18, 1977, be, and it is hereby, fixed as the date on or before which protestants and intervenors may submit verified statements in reply to such matters.

Pursuant to the above quoted provisions of the Commission's order applicant filed verified statements of its president and seven other individuals. This reply and the accompanying verified statements of John P. Wronowski and Thomas DiMaggio are submitted in response to those statements.

II

THE STATEMENTS SUBMITTED BY APPLICANT CONFIRM ONCE AGAIN ITS INABILITY TO PRESENT A FEASIBLE PLAN OF OPERATION

As was noted in the Commission's decision of November 3, 1976:

The course followed by this proceeding has been, to say the least, unusual.

Perhaps the most unusual feature has been the extraordinary lengths to which the Commission has gone to allow applicant to submit evidence which would satisfy its statutory burden

of demonstrating its fitness and, in particular, to present an operationally feasible plan.* / Throughout the course of the hearing and at various stages subsequent to the completion of oral hearings the Commission has continually allowed applicant to submit additional evidence intended to cure the basic deficiencies in its ill-conceived plan of operations. Now, some four years after the filing of its application, which should have been preceded by the formulation of a realistic concept of operation, applicant has once again demonstrated its inability to present such a plan. Instead, it simply has taken us back to square one with a warmed-over version of the same proposals which the hearing officer (who had a unique opportunity to observe and assess the demeanor of applicant's operating witnesses) found to be totally unsatisfactory.

Insofar as Greenport is concerned applicant continues to present plans which contain such features as traffic lanes running through motel buildings and large volumes of traffic negotiating narrow and already highly congested streets.

* / The case law clearly establishes that operational feasibility is an essential ingredient of a showing of fitness. See, for example, Stone Lines, Inc., Contract Carrier Application, 54 M.C.C. 310 (1952) and Bowman Transp., Inc., Ext.--Florida, 107 M.C.C. 876, 881 (1968).

At New London we are back to a plan which, even if applicant is able to put it together, would embody the same serious safety hazard which caused the application to be denied in the first instance. We express scepticism as to whether the proposed plan, overlooking its inherently dangerous character, could ever be implemented because, as is explained in the accompanying verified statements of Messrs. Wronowski and DiMaggio, it still requires various governmental approvals which are not likely to be forthcoming in view of the plan's incompatibility with the coordinated transportation master plan of the City of New London.

The majority of Division 1 is obviously intent upon responding to what it perceives to be a need for additional ferry service between New London, Conn. and Eastern Long Island. While such an objective might be commendable, it is one which any objective observer must conclude cannot be satisfied by a grant of this application. If there were any lingering doubt about that fact, it has been resolved by applicant's latest filing. In that filing applicant has not simply failed once again to make out a prima facie case of fitness. It has by its failure to do so, even after such a further extraordinary opportunity, confirmed beyond contravention its incapacity to undertake the responsibility inherent in the operation that it proposes. If applicant cannot even prepare and submit a realistic proposal it

certainly cannot be relied upon to conduct a safe, reliable operation.

Although Commissioner Gresham cavalierly dismisses these matters are mere "operational details", far more than that is involved. The Commission is being asked to authorize Mascony to carry thousands of human beings across the sometimes challenging waters of Long Island Sound. The Commission obviously has some reservations about Mascony's ability to do so as is evidenced by its tentative decision to issue Mascony only a limited term certification. Mascony's latest effort certainly gives no reason for the Commission to have any less concern about Mascony's capability. Under such circumstances persistence in the earlier decision to allow Mascony to experiment for three years in an effort to develop a viable operation would be tantamount to reckless disregard for the safety of the many thousands of potential passengers who, in reliance upon the Commission's certification, will entrust themselves to Mascony's care.

III

CONCLUSION AND PRAYER

Despite yet another extraordinary opportunity to make the showing that other applicants for operating authority have had to make as part of their case-in-chief, Mascony has still has failed by a wide margin to present evidence which

will support a finding that its proposal is operationally feasible.

WHEREFORE, on the basis of applicant's continued failure to satisfy its statutory burden of proof, Cross-Sound respectfully prays that an appropriate order be entered denying the application in its entirety without prejudice to the filing of a new application at any time that applicant believes that it is prepared to present the Commission with a realistic and workable service proposal.

Respectfully submitted,

CROSS-SOUND FERRY SERVICES, INC.

By _____

Peter A. Greene

Its Attorney

Of Counsel:

CALDWELL & GREENE
900 17th Street, N.W.
Washington, D.C. 20006

Dated: May 18, 1977

Certificate of Service

I hereby certify that I have served a copy of the foregoing document and the accompanying verified statements upon all parties of record, by first class mail, postage prepaid, this 18th day of May, 1977.

Peter A. Greene

Before the
INTERSTATE COMMERCE COMMISSION

Docket No. W-1270

MASCONY TRANSPORT AND FERRY SERVICE, INC.

--INITIAL OPERATIONS--

NEW LONDON TO GREENPORT, L.I., N.Y.

VERIFIED STATEMENT OF
JOHN P. WRONOWSKI

My name is John P. Wronowski and I am President of Cross-Sound Ferry Services, Inc. ("Cross Sound"), a protestant in the above-captioned case. This statement is submitted in response to the statements filed by applicant Mascony Transport and Ferry Service, Inc. ("Mascony") pursuant to the Commission's order of April 5, 1977.

I am President of Cross-Sound and have held that position since the Company was established in early 1975 for the purpose of taking over the operation of ferry service between New London, Connecticut and Orient Point, New York which had previously been performed by New London Freight Lines, Inc. I am personally familiar with the operations of Cross-Sound,

with evidence which has been submitted in this proceeding, and with the physical characteristics the City of New London and the Village of Greenport as they relate to the various operating proposals which have been submitted to the Commission by Mascony, including the most recent proposal described in the material filed by Mascony on or about April 28, 1977.

To begin with I would like to point out several inaccuracies in Appendices 1 and 2 to Mr. Power's statement which are intended to depict the proposed flow of traffic to and from his proposed landing site at Greenport. On both of these diagrams the width of Front Street is shown as measuring 49 1/2 feet. That is the distance between building fronts on either side of the street. Actually the distance from curb to curb is only 35 feet. In addition there is metered parking on both sides of the street which reduces the usable roadway width to 23 feet. Since Front Street is a major traffic artery it can be anticipated that the north traffic lane will be occupied most of the time when Mascony is attempting to load or unload its ferry. This means that only one lane of approximately 11.5 feet in width will be available to it. Based on my experience in dealing with vehicle traffic on Cross-Sound I can state unequivocally that it is simply not possible to handle the

1

volume of traffic anticipated by Mascony under such conditions. Even Mascony apparently recognizes this problem and has stated at page three of Mr. Power's statement the intention to use its own personnel to direct traffic on Front Street. I have checked this with the Village authorities and have determined that no permission has been granted to Mascony to do this, that without such permission a private company may not attempt to control traffic on a public street, and that in view of the fact that Front Street is such an important artery, particularly in mid-summer, it is very unlikely that Mascony would be granted such authority.

The diagrams attached to Mr. Power's statement, particularly Appendix 2, are also misleading in one other respect. That diagram shows traffic flowing from the proposed landing site to Front Street via two routes. One route, to be used by passenger cars, is through a 14 foot alley which lies almost directly in front of the landing site. Trucks, on the other hand, would turn right as they come off the ferry and go out an alley which, according to Mascony's map, lies directly across Front Street from First Street. Unfortunately the Mascony plan omits a few important details relevant to that proposed route. For example, it would require the trucks to go over underground fuel storage tanks which probably could not withstand such concentrated movement

of such heavy loads. Also, there is an eight unit motel directly in the path of traffic depicted by Mascony. I have carefully reviewed Mascony's evidence in this case and have found no indication of any authority to remove or alter that structure. For the Commission's convenient reference I have attached as Appendix 1 a copy of a more accurate diagram of the involved property which is "Schedule A" to the lease agreement between Mascony and Advine Realty Company pursuant to which Mascony purports to have the right to use the Mitchell property. On that appendix I have superimposed the traffic flow suggested by Mr. Power in order to illustrate the problem with the fuel storage tanks and the motel.

In this regard, I think it is also appropriate to comment on the Memorandum of the Supreme Court of New York which is attached to Mascony's statement as Appendix 3. Although Mr. Power seems to suggest that the memorandum is somehow dispositive of his right to use the Mitchell property as his Greenport terminal, my reading of it leads to the opposite conclusion. Although the Court has denied the Mitchell's a preliminary injunction it also denies Mascony a request for summary judgment in its favor. Based on experience to date in this proceeding I think it is also significant that in reaching its decision the Court observed that:

" . . . a trial is essential to test the credibility of the various parties and non-party witnesses, some of whom, at a minimum, have faulty memories." Thus, it would appear that the right of Mascony to use the Mitchell property is still very much an open question.

At page 4 of his statement Mr. Power begins his discussion of the most recent version of his plan for terminal operations at New London. At page 5 he states that: "Cross-Sound is owned by the Wronowski family." After castigating the City Council of New London Mr. Power goes on to state at page 5 that:

Applicant ascertained that the Council of the City of New London was entertaining a proposal by Nelseco Navigation Company hereafter referred to as Nelseco, where Nelseco proposed to use the same Municipal Pier, free of charge, in order to operate a ferry service between New London, Connecticut and Groton, Connecticut. Nelseco is also owned and controlled by the same Wronowski family that now owns and controls Cross-Sound.

The foregoing discussion obviously has nothing to do with Mascony's proposed operations and therefore goes beyond the scope of the Commission's order of April 4, 1977. However, since it is in the record I feel obliged to respond to it in order that my silence not be construed as acquiescence in Mr. Power's apparent belief that there has been some kind of conspiracy to deprive his company of use of the New London City Pier.

To begin with, contrary to Mr. Power's contention Cross-Sound is not owned by the Wronowski family. All of the stock of Cross Sound is owned by myself and J. Brent Lynch who is not related to me in any way. Nelseco Navigation, on the other hand, is owned by my father, John H. Wronowski. While I certainly enjoy a cordial relationship with my father, I have nothing to do with the operations of Nelseco and he has nothing to do with the operations of Cross-Sound. Nelseco and Cross-Sound are totally independent companies. Mascony's allegations of common control were thoroughly aired in Finance Docket No. 27846 in which Cross-Sound acquired the operating rights of New London Freight Lines, Inc. The Commission found in that proceeding that there was no common control. Thus, there has been no conspiracy by "the Wronowski family" to deprive Mascony of use of the City Pier.

The operation that Mr. Power talked about at page 6 of his statement was, in any case, a fundamentally different type of operation than that which it proposes. It involved a proposal by the Connecticut State Department of Transportation intended to eliminate traffic problems at the General Dynamics plant at Groton, Connecticut which is directly across the Thames River from New London. Basically, the plan called for workers at the plant to park their cars

at the New London Municipal Parking Garage, walk to the City Pier, and take a ferry across to the plant as foot passengers. In the evening the process would be reversed. Thames Shipyard rather than Nelseco was approached by the Connecticut Department of Transportation and agreed to cooperate in the plan if it ever came into being which it has not. I know all of the foregoing information both in my capacity as an officer of Thames Shipyard and because it is all a matter of public knowledge and was widely reported in the local press.

Turning to the specifics of applicant's latest New London terminal proposal, I would first like to observe that it appears to be substantially the same proposal with which it started out but eventually abandoned because of the serious safety hazards inherent in moving cars directly on and off its vessels onto the rail tracks over which Amtrack operates its high speed trains between New York and Boston.

The only difference between the original plan and the new plan seems to be that Mascony now proposes to use the old coal pier owned by Kellems Realty Corp. rather than the adjacent lumber pier owned by the DeNoia family. The modified proposal would still involve the same serious safety hazard which caused the Connecticut Public Utilities Commission to intervene in this proceeding and which caused the administrative

law judge to deny the application. Although the Kellems crossing is technically an active crossing it is used only infrequently by trucks moving to or from a storage yard located on the pier. Even with that very slight volume of traffic there have been at least two vehicle-train accidents on that crossing in recent months.

In order to provide for this serious safety problem applicant and Vernon K. Nelson, the Executive Director of the agency that proposes to sell land to Mascony, have suggested that " . . . the grade crossing will be equipped with a signalling device." It is also suggested that "the cost for the device will be obtained from Federal Highway Administration and redevelopment project expenditures." Inquiry directly of Mr. Nelson reveals that, contrary to the implication that might be derived from his statement, there are no FHA funds presently available for such purpose, none have been requested, and if they should eventually be requested there is no assurance that they would be allocated. In view of the long-term policy of elimination of grade crossings which Commissioner Murr'y referred to in his dissenting opinion at page 75 of the Commission's report issued last November it would seem that the prospect of such a grant of funds is, at best, highly unlikely.

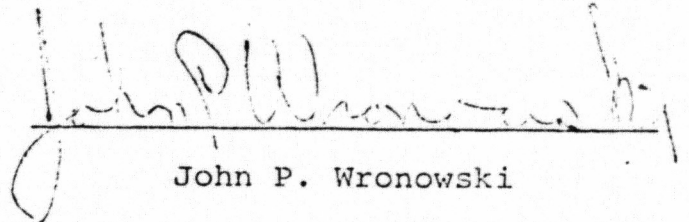
The material submitted by Mascony also leaves the impression that its acquisition of the property depicted in Appendices 8, 9 and 10 of Mr. Powers' statement is a foregone conclusion. As is explained in the accompanying verified statement of City Councilman DiMaggio that is not the case. Also attached hereto as Appendix 2 is a copy of a memorandum recently issued by the City Manager which strongly indicates that the proposed Mascony acquisition is a long way from being final.

Still another problem with the proposed landing site at the Kellem's dock is that the landing angle proposed in Mr. Power's Appendix 8 would interfere with the use of the DeNoia property lying on the water side of the railroad docks. That property is under lease to Nelseco Navigation Company (which, as previously noted, is owned by my father) and is presently being used for storage of vessels. If, on the other hand, Mascony were to attempt to straighten the proposed mooring angle it would create a serious navigation hazard due to the length of its vessels.

VERIFICATION

STATE OF CONNECTICUT)
) ss.:
CITY OF NEW LONDON)

John P. Wronowski, being first duly sworn, deposes and says: that he has read the foregoing statement, knows the contents thereof, and that the same are true and correct as stated.


John P. Wronowski

Subscribed and sworn to before me
this ____ day of _____, 1977.

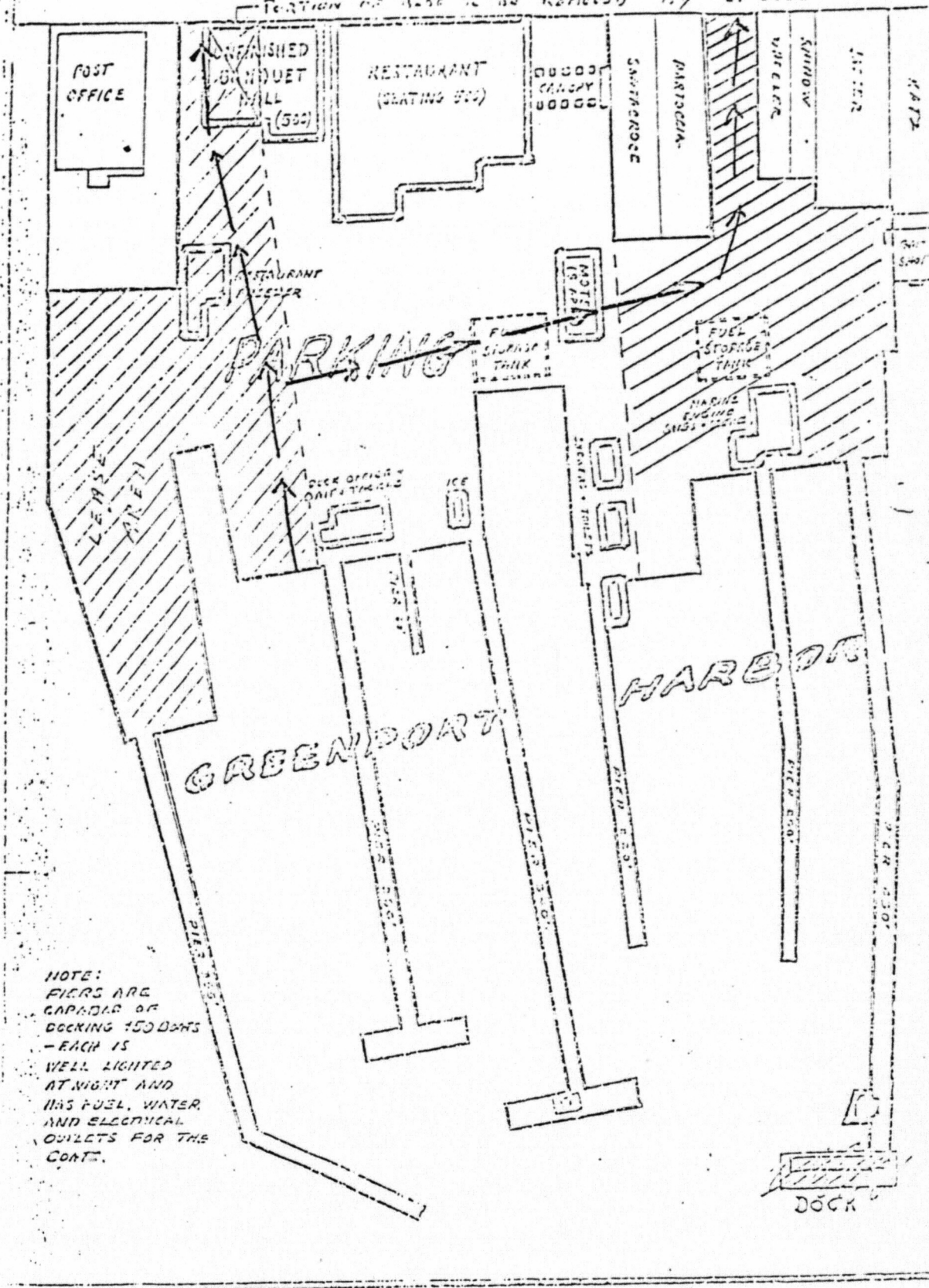
Notary Public

FRONT STREET

Appendix 1.

PORTION OF MAP AS REVISED BY

1/1/52

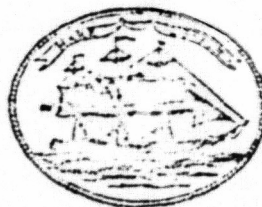


NOTE:
PIERS ARE
CAPABLE OF
DOCKING 1500 TONS
- EACH IS
WELL LIGHTED
AT NIGHT AND
HAS FUEL, WATER
AND ELECTRICAL
OUTLETS FOR THE
COATS.

SCHEDULE "A"

Recd. 5/12/77

N 3.



Appendix 2

**CITY OF NEW LONDON
CONNECTICUT**

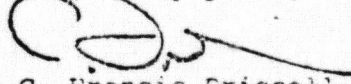
May 11, 1977

TO: Redevelopment Agency
City Planning Board

SUBJECT: TRANSPORTATION CENTER AND POSSIBLE SECOND FERRY SERVICE

I am enclosing herewith two votes of the City Council at its meeting of May 9 as follows: 1) that the Council go on record as favoring the building of the transportation center around the Railroad Station Area and that the Redevelopment Agency be notified that they cannot sell land without Council approval; 2) the Council expresses its serious concern over the reports of a planned citing for a second ferry service; namely, Mascony at the Sparyard crossing and that this serious concern of the City Council be referred to the Redevelopment Agency, notifying said Agency that the matter will be discussed at the next Council meeting on May 16; further, that this matter be referred to the City Planning Board. We trust that both Boards of the City will consider these votes of Council and take appropriate action regarding same or submit reasons why they would act to the contrary to the Council.

Very truly yours,


C. Francis Driscoll
City Manager

Before the
INTERSTATE COMMERCE COMMISSION

Docket No. W-1270

MASCONY TRANSPORT AND FERRY SERVICE, INC.
INITIAL OPERATIONS--NEW LONDON TO GREENPORT, L.I., N.Y.

VERIFIED STATEMENT
OF
THOMAS DIMAGGIO

My name is Thomas DiMaggio and I am a member of the City Council of the City of New London. The City Council, which consists of seven members, is the legislative branch of the government of the City of New London.

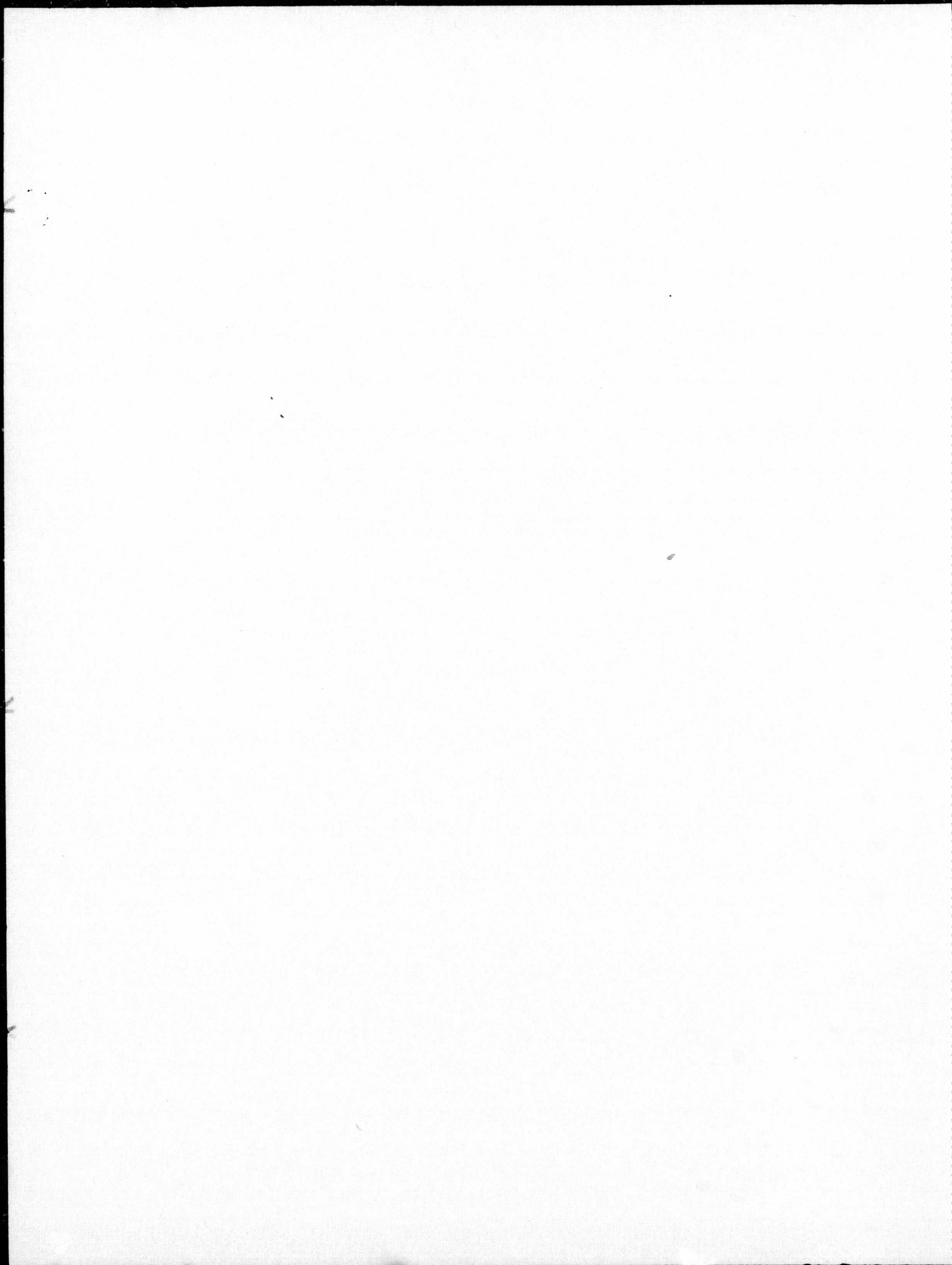
My purpose in making this statement is not to take sides in this proceeding. Instead, I just want to be sure that certain representations made in this case by Mr. Vernon J. Nelson, Executive Director of the Redevelopment Agency of the City of New London have not left the Commission with any erroneous impressions.

In his statement, Mr. Nelson says that the Redevelopment Agency has "entered into negotiations" with Mascony for the purchase of certain land in the Shaw's Cove area of New London which Mascony apparently intends to use as a ferry terminal. I have no reason to doubt that such negotiations have taken place but I do have serious question as to whether they will ever result in sale of the land in question to Mascony for the intended purpose of establishing a ferry terminal.

The Redevelopment Agency is an agency of the government of the City of New London. Before it can sell any land to anyone it must obtain approval from the City Council. Such approval is given, if at all, only after the proposed transaction is expressly approved by the City Council. Before the City Council acts the proposal is reviewed by the City Planning Board which, after reviewing the proposal from the standpoint of its consistency with our overall development plans and objectives, makes a recommendation to the City Council.

With respect to transportation planning and development the City of New London has made a major commitment to a coordinated intermodal transportation center based around our railroad station which has recently been completely renovated at very substantial cost. Among the transportation services available in the vicinity of the railroad

station will be ferry service to Long Island from the new terminal of Cross-Sound Ferry Services, Inc. construction of which is expected to be completed by September of this year. I mention this because the proposed site of the Mascony ferry would be far removed from our transportation center and therefore inconsistent with our overall development plans. For this reason I have serious reservations as to whether the Planning Board would endorse or the City Council approve any agreement that might eventually be reached between Mascony and the Redevelopment Agency for location of a ferry terminal at the Shaw's Cove site described in Mr. Nelson's statement.



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STATE OF CONNECTICUT)
) ss.:
CITY OF NEW LONDON)

Thomas DiMaggio, being first duly sworn, deposes and says: that he has read the foregoing statement, knows the contents thereof, and that the same are true and correct as stated.

Thomas F. D. Mayo

Thomas DiMaggio

Subscribed and sworn to before me
this 14th day of MAY, 1977.

Peter B. Williams

Notary Public
My Commission Expires March 31, 1978

DOCUMENT 362



BEFORE THE
INTERSTATE COMMERCE COMMISSION
IN THE MATTER OF
MASCONY TRANSPORT AND FERRY SERVICE, INC.
- INITIAL OPERATIONS -
NEW LONDON TO GREENPORT, L.I., N.Y.

DOCKET NO. W-1270

VILLAGE OF GREENPORT'S VERIFIED STATEMENTS

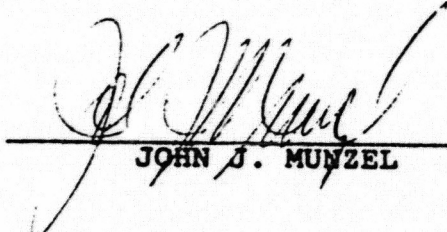
Village of Greenport's Representative:

JOHN J. MUNZEL, ESQ.
548 Roanoke Avenue
Riverhead, New York 11901
516-727-7345

DUE DATE: May 18, 1977

CERTIFICATE OF SERVICE

I hereby certify that I have this 17th day of May, 1977, served a copy of the attached verified statements and appendices upon all parties of record in this proceeding by mailing, by first class mail, postage prepaid, a copy thereof, properly addressed to each.



JOHN J. MUNZEL

TABLE OF CONTENTS

1. Verified statement of Jonathan Y. Richmond and appendices.
2. Verified statement of James Monsell.
3. Verified statement of Robert G. Polzmacher

VERIFIED STATEMENT

of

JONATHAN Y. RICHMOND

My name is Jonathan Y. Richmond, and I am the Chairman of the Village of Greenport Planning Board with offices located at 236 Third Street, Greenport, New York 11944. Your deponent was appointed to the Village of Greenport Planning Board on July 8, 1974 and was elected Chairman on April 7, 1975 and has continued to serve in said capacity.

Pursuant to the Zoning Ordinance of the Village of Greenport, specifically Section 85-32 thereof, the Planning Board is required to approve site development plans, prior to the use of any property in the waterfront commercial district and other districts. The premises here are in the waterfront commercial district. Among the items to be considered are traffic access that is adequate with grade alignment visibility and not located too near street corners or other places of public assembly, and other similar safety considerations. (Section 85-15, subdivision A (4) specifically says that "no entrance or exit for any off-street parking area shall be located within fifty feet of any street intersection".)

In addition thereto, the Board is required to insure that adequate offstreet parking and loading spaces are provided to prevent parking in public streets of vehicles of any persons connected with or visiting the use, and that the interior circulation system is adequate to provide safe accessibility.

In furtherance thereof, there is a pre-submission conference between the applicant and the Planning Board at which is discussed the proposed uses and development, and thereafter the procedure is outlined in Section 85-32 of the Zoning Ordinance of the Village of Greenport.

No such site plan has ever been submitted by the applicant, although the applicant has been seeking use of the property for over three years, witness this proceeding.

PROPOSED INGRESS

The Affidavit of George R. Power and Appendix 1 attached to the Verified Statement shows traffic forming in parking area B off Third Street, proceeding through the "Bohack property" onto Front Street and along Front Street for a time onto the property.

There are a number of very substantial difficulties with this proposal.

With reference to parcel B, the assumption must be made that access will be from Third Street. Thus, vehicles coming into the Village of Greenport, traveling East along Front Street, will have to turn right at the intersection of Front and Third Streets, an intersection governed by a traffic signal. Traffic would then proceed South on Third Street, approximately two hundred and fifty feet to make a left turn to reach the parcel B staging area. Unfortunately, such a traffic flow plan is poor as Third Street is the access route for traffic

off-loading from the Shelter Island Ferry. Traffic congestion would result when the Shelter Island Ferry traffic would hinder the above mentioned left hand turn into parcel B, or conversely, vehicles attempting to enter parcel B would block the orderly flow of traffic from the Shelter Island Ferry, driving North on Third Street. Additional problems would be created if rescue vehicles must utilize the route, particularly ambulances proceeding from Shelter Island to Eastern Long Island Hospital.

Furthermore, the Long Island Railroad terminal, located at the foot of Third Street, approximately two hundred and fifty feet South of the entrance to parcel B is also a bus terminal, and the abandoned railroad dock, also located at the foot of Third Street, has been under consideration for a number of years as a site to develop a public fishing and boat mooring dock. This would increase traffic along Third Street and the heavy traffic would seriously hinder public access to such a facility.

It is assumed that all traffic will first enter parcel B and then be routed as indicated on Appendix A through parcel C. Any vehicles entering parcel C from Front Street would obviously cause havoc. Thus, all vehicles, cars, trucks, trailers, campers and tractor trailers must enter parcel B via Third Street, as indicated above. Third Street and all of the streets in the environs, with the exception of Front Street, are old residential streets not designed to withstand the heavy traffic that must occur with this traffic pattern.

On page 3 of the Affidavit of Mr. Powers, he states "depending on the traffic flow, the lot designated as parcel A can also be used for staging if necessary". However, if parcel A is to be used for long term

parking, it is difficult to see how it can also be used for staging. If parcel A is to be used at all, all vehicles would enter said area in one of two ways: Upon entering from Front Street would mean that incoming vehicles would have to cross Third Street intersection and immediately execute a right hand turn. Such turning would drastically reduce the traffic flow along Front Street in an easterly direction and would in some instances would possibly restrict westbound traffic.

Entrance from Third Street would mean that after turning right onto Third from Front Street, vehicles would have to execute a left turn within one hundred and forty feet of the intersection.

In light of the above mentioned existing traffic flow from Shelter Island Ferry traveling North on Third Street, vehicles attempting to enter parcel A would substantially add to the congestion of the busy intersection. If parcel A is used for a staging area, this would substantially increase the number of vehicles along Front Street, thereby substantially blocking off any access to the Greenport Playhouse, East End Supply and more importantly, the United States Post Office.

Additionally, drivers seeking routes onto the ferry, most of whom will probably not be familiar with the traffic pattern, will, of course, be directed by signs. This means even further congestion in the Third and Front Street intersection as a result of drivers attempting to decipher signed instructions.

Turning now to the main ingress proposal as set forth in appendix 1 of the Affidavit of George Power, all eastbound traffic along Front Street would be halted for whatever time is required to allow all vehicles from stagings areas B and C to move onto Front Street and into

parcel E. Considering that there will also be a number of tractor trailer trucks, campers and cars with trailers, it is quite reasonable to expect that there will be a certain amount of disruption of the westbound traffic along Front Street as well.

As stated before, such traffic will effectively block all public access to either East End Supply or the Post Office and will create a dangerous pedestrian situation, as it requires that the sidewalk be crossed twice by each vehicle.

The proposal that Mascony would have its personnel directing vehicular traffic has no basis in law. Front Street is a state highway and only authorized police officers may direct traffic, except perhaps in an emergency situation. Furthermore, the Mascony personnel, being more concerned with ferries, are not trained in traffic control.

Attached hereto and made a part hereof and marked appendix A is a map of the Mitchell property. Marked thereon over the letter A in the word "parking" is a square, indicating the presence of some six fuel tanks. These fuel tanks contain some twelve thousand gallons of gasoline and four thousand gallons of diesel fuel. They are buried approximately six feet under the level of the parking lot and are regularly in tidal water. Such heavy traffic on the thinly coated parking lot and the constant movement of the gravelly soil presents a considerable danger of rupture of one or more of these tanks. If these tanks were to rupture as a result of the heavy traffic, there is the danger of substantial amounts of highly combustible and explosive gasoline circulating through the harbor area. A cigarette thrown by a

tourist into the waters could cause a conflagration along the old wooden waterfront, the likes of which Greenport has never seen.

Further "local knowledge" shows that the Mitchell bulkheading was a steel bulkheading placed in 1946 with an expected thirty year life expectancy. The bulkheading and the area behind it has been undermined at the point of the proposed ferry slip and other points along the waterfront, making the waterfront totally unusable without substantial repairs and improvements.

INTERNAL TRAFFIC

The internal traffic as shown on Appendix 1 shows traffic being diverted in a "U" along the Mitchell property in an area less than thirty feet. Your deponent submits that this is virtually impossible to accomplish with any orderly fashion and no car, other than a compact vehicle, could possibly negotiate the turn smoothly as indicated. Thus, all traffic as a practical matter would simply line up in one straight line out through Front Street, down back into parcel C and parcel B. It is obvious that traffic along Front Street would be, in effect, halted during the entire loading period.

Traffic exiting from the ferries are shown on Appendix 2, to be leaving by proceeding either due North and then West on Front Street, or proceeding East along the Mitchell property out "Texaco alley" and North on First Street.

Turning again to Appendix A, it is readily apparent that all traffic scheduled to exit via First Street must pass over fuel storage tanks just East of the motel. Furthermore, it must pass over the old fuel storage tanks of what originally was a Texaco station and which gave rise to the name of the alley way as "Texaco alley".

These storage tanks are close to the surface in order to minimize their immersion in tide waters. It is impossible that these could withstand the traffic envisioned by the proponent.

Furthermore, the bulkheading near the motel is severely undermined and, upon information and belief, would not withstand the weight of one tractor trailer truck. This bulkheading has long outlived its usefulness and must be replaced. It has not been replaced in recent years and the land behind the bulkheading is substantially undermined, making it a very dangerous traffic matter.

The egress route through "Texaco alley" presents several unacceptable situations. It is a virtually blind entrance onto Front Street because of stores build close to the sidewalk on both sides. A very bad bump exists at the intersection of this alley and Front Street. Furthermore, there are a number of lateral sewer and water lines servicing, among other things, the motel and various buildings in the area. In addition thereto, there is a storm drain easement for storm drain purposes from waters collecting at the intersection of First and Front Streets. In addition thereto, the exit is a direct prohibition of Section 815 A(4) of the Zoning Ordinance, which provides that no entrance or exit for any off-street parking area shall be located within fifty feet of any street intersection.

Furthermore, the proposed use of the Mitchell property effectively withdraws at least fifty parking places from Mitchells' Restaurant which is one of the famous restaurants in the area and which during the summer months, and on many occasions throughout the year, utilizes all of its parking area and even more. This would render the Mitchell Restaurant an illegal use because of the withdrawal of the parking. Thus, Mitchells would be deprived of almost all of its parking area. All customers of Mitchells would then be utilizing the already overpressed downtown parking area to go to the Mitchell Restaurant.

EXITING TRAFFIC

As stated before, all traffic eastbound and westbound on Front Street would have to be halted for the duration of vehicular egress. Additionally, the exit route would also effectively block any left turning traffic proceeding South along First Street at the Front Street intersection.

As the exiting vehicles traveled off along Front Street, they would further block the left turning vehicles traveling South on First Street wishing to enter Adams Street, as well as vehicles entering and exiting the municipal parking lots located immediately North of Adams Street.

Within a matter of a few blocks, such exiting traffic would leave the central business district and proceed along several residential blocks before reaching the intersection of First, Main and Webb Streets (commonly known as "Steamboat Corner". This complex corner has been identified as the second most dangerous intersection within the Village of Greenport, the intersection of Front and Main being the most danger-

ous, and the intersection of Front and Third Streets being also a very dangerous intersection.

If should also be noted at this point that the Appendices 1 and 2 indicate that Front Street is forty-nine and a half feet wide. This is not the case. The forty-nine and a half foot measurement is on various official maps but represents property line to property line. An actual steel tape measurement of Front Street shows that it is only thirty-three feet wide.

Furthermore, parking is permitted on both sides of the street. Because of this limited street width, any turning of cars would be slow and turning of tractor trailers would be very difficult, further reducing the traffic flow.

As will be more fully set forth in the Affidavit of James Monsell, the sewer and water pipes in First Street were laid in approximately 1890 by the Stirling Sewer Company. They consist of clay vitrified pipe and some of them are as little as two feet under the street. Any substantial traffic along this area severely endangers the sewer and water pipes which would probably rupture very shortly. This, of course would necessitate the blocking off of all exits for purposes of repair of sewer and water mains.

Your deponent has dwelled heavily on the impossibility of the proposed traffic flow patterns within the Village of Greenport and this is the most obvious and dramatic impact. A traffic study conducted for the Village of Greenport by the Suffolk County Traffic

Safety Department, dated December, 1976, a copy of which is attached hereto and marked Appendix B, is eloquent in its description of the impossibility of the present traffic flow situation in the Village of Greenport, without the impact of a ferry of the proportions envisioned by the applicant.

TOURISM

The Village of Greenport master plan and all studies of Greenport have recognized that the major industry is tourism, which should be expanded. Many travelers come to Greenport by vehicle during the Spring, Summer and Fall months to enjoy the historic scenic Village. In recognition of this, the Planning Board has always sought to encourage the expansion of tourism in the Village.

In order to do so, the Planning Board has made site plan reviews which sought to make the Village as least congested as possible by requiring substantial off-street parking for its various businesses and to make Greenport a pleasant place for tourists to visit. The burst of traffic that would be engendered by the applicant would make Greenport the place to avoid for all purposes, other than ferry traffic. The congestion, noise, odor and general disruption would soon defeat all that the Planning Board has sought to achieve.

Also, Greenport Harbor and Stirling Basin have been famous in many circles as a good harbor with fine boating facilities. This has attracted thousands of vessels each year to the Greenport area and constitute a substantial portion of the tourism. Unfortunately, the presence

of large vessels such as proposed by the applicant would make the use of Greenport Harbor no longer a pleasant stop but one fraught with danger. Greenport is noted for its sailboats and its sailing community. It is also noted for its strong currents which make maneuverability somewhat difficult. It does not, however, present a great danger, except when attempting to maneuver away from the vessels as proposed to be used by the applicant.

Furthermore, the application of the applicant indicates that a substantial portion of the docking space and facilities in Mitchells would be removed. As a practical matter, this would substantially reduce the private docking available for pleasure craft, thereby further making Greenport less attractive for yachtsmen to visit.

It is not necessarily the number of yachtsmen that is significant as to tourism. It is the combination of the picturesqueness of the Village, its ties with the sea and the sailing community that also attract the tourists.

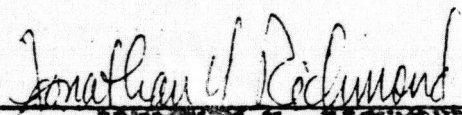
CONCLUSION

The economic health of Greenport depends in large part on its retail businesses. As the study by the Traffic Safety Division of the County of Suffolk amply indicates, the present downtown traffic situation is well in excess of design capabilities. The sudden injection of one hundred fifty or two hundred vehicles at one burst, loading and off-loading from ferries, is a totally unacceptable impact upon the Village with the proposal as presently made to this Commission by the applicant.

Retail businesses require ease of access and convenience to the shopper. With parking on both sides of Route 25 and automobile doors opening and closing to discharge shoppers, the thirty-three foot road width is now inadequate. The grant of the application to the applicant would create such a severe traffic jam as to strangle the Village. The dangers to pedestrians has been set forth herein.

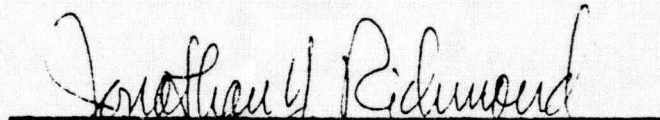
The net result would perhaps be the prosperity of one or two fast food service establishments for the convenience of waiting ferry passengers at the expense of the other businesses of the Village of Greenport and its public sewer and water facilities.

WHEREFORE, it is respectfully requested that the Commission deny the application of Mackony Transport and Ferry Service.

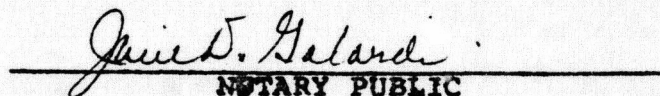

JONATHAN Y. RICHMOND

STATE OF NEW YORK
COUNTY OF SUFFOLK ss.:

JONATHAN Y. RICHMOND, being duly sworn, deposes and says that he has read the foregoing statement, knows the contents thereof, and that the same are true as stated.

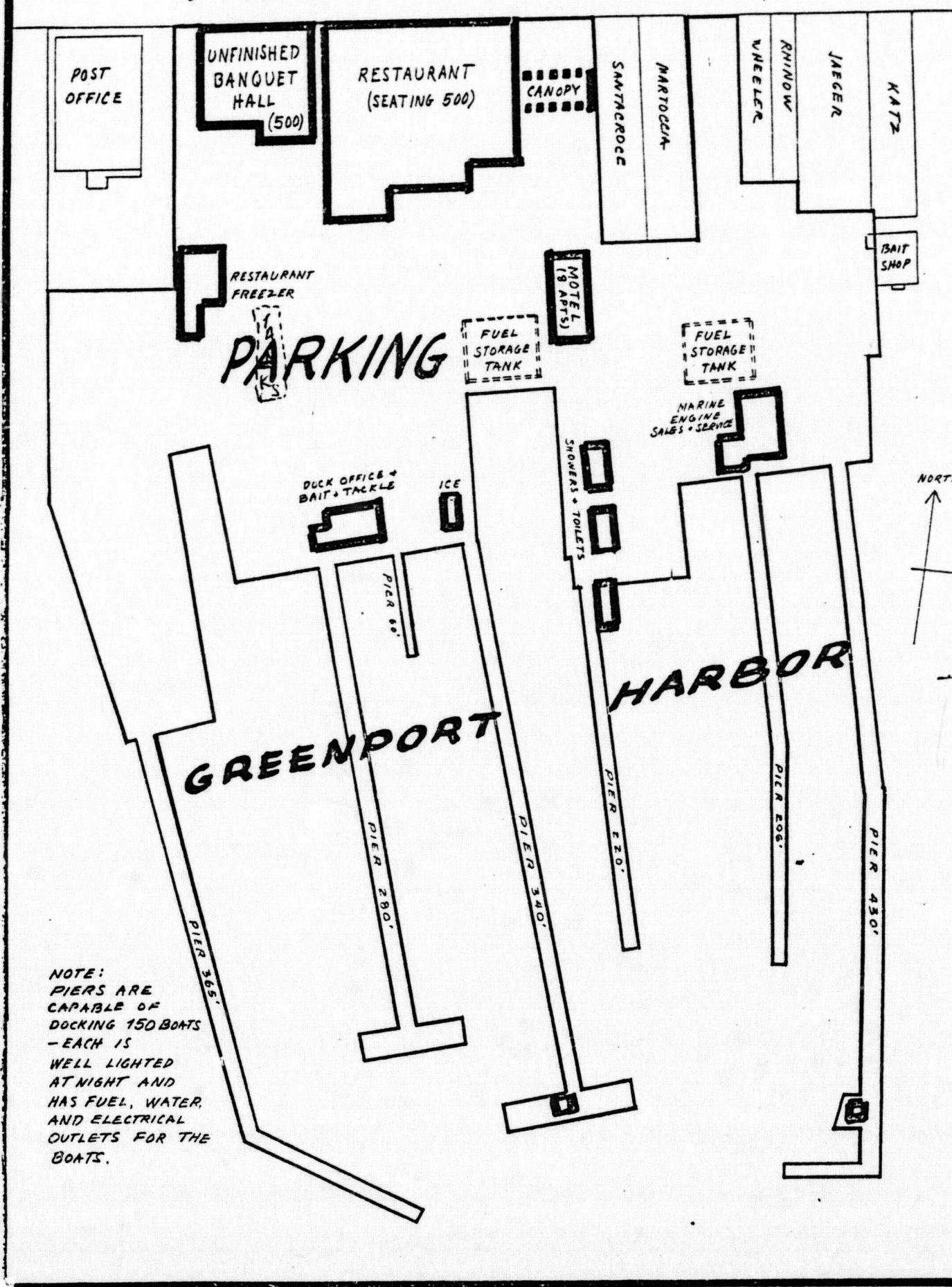

JONATHAN Y. RICHMOND

Subscribed and sworn to before me, a Notary Public, this 16th day of May, 1977.


NOTARY PUBLIC

JULIE D. GALARDI
NOTARY PUBLIC, State of New York
No. 52-341180 - Suffolk County
Commission Expires March 30, 1978

FRONT STREET

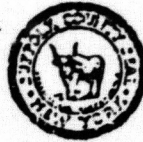


APPENDIX B

**TRAFFIC STUDY REPORT
VILLAGE OF GREENPORT
BUSINESS DISTRICT**

**Prepared by: Suffolk County Traffic Safety Department
December 1976**

COUNTY OF SUFFOLK



DEPARTMENT OF TRAFFIC SAFETY

JOHN P. SHERIDAN
DIRECTOR OF TRAFFIC SAFETY

December 6, 1976

Mayor Joseph L. Townsend, Jr.
236 Third Street
Greenport, New York 11944

Dear Mayor Townsend:

We are pleased to transmit, herewith, this Department's Traffic Study Report for the Village of Greenport Business District. The report summarizes the results of our assessment of traffic conditions in the downtown area and presents a series of alternatives for improving traffic flow in the area.

It is essential that Village officials recognize that present traffic volumes during the summer months have reached saturation levels and that positive action is required to avoid major traffic problems in the future. We believe the key to providing significant traffic relief in the Village is through the institution of a one-way street circulation system and/or the selected prohibition of on-street parking in the downtown area.

We are available at your convenience to discuss this matter.

Very truly yours,

A handwritten signature in dark ink, appearing to read "John P. Sheridan". The signature is fluid and cursive, with a large initial "J".

John P. Sheridan
Deputy Commissioner
of Transportation

JPS:ff
Enc.

cc: Village Board of Trustees
Members, Village Planning Board

SUMMARY

This report summarizes the results of the Suffolk County Traffic Safety Department's assessment of traffic conditions in the Village of Greenport business district and presents a series of alternatives for improving traffic flow in the area.

Traffic volumes on the street system servicing the downtown area have reached the saturation levels. Front Street and Main Street are operating at capacity and cannot accommodate any significant increases in traffic volumes during the day. Traffic congestion and delays are prevalent in the downtown area during peak periods of shopping activity. The principal cause of the traffic congestion is the restricted street capacity resulting from the narrow travel lanes and extensive on-street curb parking.

As part of this investigation, a series of alternative solutions have been developed and reviewed. These alternatives are as follows:

Alternate A - Improved Guide Signing to divert through traffic around the business district.

Alternate B - The extension of Adams Street to connect First Street to Third Street.

Alternate C - The use of "paired-parking" stalls along Front Street - Main Street.

Alternate D - Improved traffic signal control at the intersection of Front Street and Main Street.

Alternate E - Removal of curbed on-street parking from Front Street-Main Street (includes provision of adequate off-street parking to replace curb parking.)

Alternate F - The institution of a one-way street circulation system along Front Street-South Street and Main Street-First Street.

Alternate G - Do Nothing

It is essential that Village officials recognize that present traffic volumes during the summer months have reached saturation levels, and that positive action is required to avoid major traffic problems in the future. We believe the key to providing significant traffic relief in the Village is through the institution of a one-way street circulation system and/or the selected prohibition of on-street parking in the downtown area. If the Village of Greenport is to continue to prosper as the tourist and commercial center of the North Fork, it is essential that an adequate street system be provided to accommodate its orderly growth and redevelopment.

Traffic Study

Village of Greenport

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Traffic Study Village of Greenport

Introduction

The Honorable Joseph Townsend, Jr., Mayor of the Village of Greenport, has requested the Suffolk County Traffic Safety Department to conduct a traffic study in the business district of the Village. This report summarizes the results of the Traffic Safety Department's assessment of traffic conditions in the downtown area and presents a series of alternatives for improving traffic flow in the area.

Existing Traffic Conditions

Figure 1 show the major street system in the Village of Greenport. Front Street (N. Y. S. Route 25) and Main Street are the major roadways servicing the Greenport central business district. Both roadways are relatively narrow two lane roads with curb parking permitted on either side.

Peak traffic activity within the Village occurs in the summer months. Figure 2 shows the daily traffic volumes using the street system during this period. Front Street is the most heavily traveled roadway in the downtown area accommodating approximately 10,000 vehicles on a typical summer day.

Figure 3 shows the hourly variation of traffic on Front Street throughout the day. Traffic volumes remain relatively high and steady from 11:00 a. m. to 5:00 p. m., the periods of greatest shopping activity. The quality of traffic service is poor in the business district during these periods. Traffic congestion and delays are prevalent with the principal causes being narrow travel lanes, marginal friction created by parked vehicles along both sides of the road, inefficient traffic control at the Main Street-Front Street intersection and street blockages caused by left turning vehicles.

Two-way traffic volumes along Front Street vary between 700 and 750 vehicles per hour during peak periods. This section of roadway is essentially operating at capacity and no significant increases in traffic volumes can be accommodated without changes in the roadway or traffic control system. We would anticipate that these existing capacity restrictions along Front Street would ultimately result in traffic using other alternative routes within the Village or else diverting to other shopping areas in the Town of Southold.

Surveys¹ taken by this Department during August 1976 indicate that approximately 25 percent of the traffic entering the business district is "through" traffic and has a destination which is outside of the business district. Less than one percent of the "through" traffic was recorded as stopping within the business area. It is interesting to note that "through" traffic in the east-bound direction is twice the "through" traffic in the westbound direction.

Traffic Accidents

Figures 4 and 5 are accident spot maps indicating the location and number of accidents within the Village of Greenport during 1974 and 1975 respectively. During this two year period there were fifty-three accidents along Front Street-Main Street within the business district. Three of these accidents involved pedestrians.

The accident rate along this road is estimated at three to four times the expected rate of a two lane roadway through a business district. The vast majority of accidents are low speed collisions and do not result in personal injuries. The principal contributory factors to the high incidence of traffic accidents in the downtown area are the narrow width of roadway, curbed parking, restricted sight lines caused by parked vehicles and the overall congestion caused by the restricted roadway capacity.

Existing Parking Characteristics

As part of this investigation, a series of parking occupancy surveys were conducted during August 1976. Surveys were taken during selected periods on a typical Monday and Friday to determine the number of vehicles parked within the business district.

The results of the surveys indicate that overall about 50 percent of the available parking spaces were occupied during these days. In the core area (See Figure 6) approximately 70% occupancy was recorded, while in the fringe area (See Figure 6) 30% occupancy was recorded.

It is estimated that parking demand is approximately 15 percent greater on the weekends and, thus, current peak parking occupancy in the Village on weekends is 80 percent in the core and 35 percent in the fringe area. Since 85 percent occupancy is generally considered saturation or capacity, current peak parking demands are estimated at capacity in the core area and at 35 percent of capacity in the fringe.

- 1) License plate survey of vehicles entering and leaving the business district

This relationship is typical of most active downtown business districts in the County. That is, there is a deficiency of convenient available parking spaces in the core area, and an excess of available parking spaces in the fringe areas.

Proposed Traffic and Parking Improvements

In August 1976, the Village of Greenport Planning Board issued a report entitled "Improvements to Parking and Traffic Flow - Central Business District Greenport". Included among the principal recommendations of the Planning Board were the extension of Adams Street to connect Third Street to First Street and the construction of a new 90 car parking field north of Adams Street to supplement the existing two parking fields in this block. (See Figure 7)

Listed as the major advantages of these traffic and parking improvements were:

- . the opening of a new cross-Village automobile access route
- . the opening of a new access to the west Front Street stores
- . the connection of the existing parking lots and the opening up of the under-utilized Third Street lot

The Planning Board's proposals and recommendations are currently under review by the Village Board of Trustees.

Summary-Problem Identification

Traffic volumes on the street system servicing the central business district of the Village of Greenport have reached the saturation levels. Front Street and Main Street are operating at capacity and cannot accommodate any significant increases in traffic volumes during the day. Traffic congestion and delays are prevalent in the downtown area during peak periods of shopping activity. The principal cause of the traffic congestion is the restricted street capacity resulting from the narrow travel lanes and extensive on-street curb parking.

Alternative Solutions

General

The major identified problem in the downtown area is the restricted street capacity along Main Street and Front Street. In order to achieve improved traffic flow and movement through the business district the capacity restrictions of the existing street system must be recognized as a limiting factor. Solutions must be implemented which will either divert traffic from Front Street and Main Street or increase the capacity of these two streets.

As part of this investigation a series of alternative solutions have been developed and reviewed. These alternatives are as follows:

Alternate A - Improved Guide Signing to divert through traffic around the business district.

Alternate B - The extension of Adams Street to connect First Street to Third Street.

Alternate C - The use of "paired-parking" stalls along Front Street - Main Street.

Alternate D - Improved traffic signal control at the intersection of Front Street and Main Street.

Alternate E - Removal of curbed on-street parking from Front Street-Main Street (includes provision of adequate off-street parking to replace curb parking.)

Alternate F - The institution of a one-way street circulation system along Front Street-South Street and Main Street-First Street.

Alternate G - Do nothing.

The remainder of this report discusses various aspects of the alternative schemes investigated.

Alternate A - Improved Guide Signing

This alternate would provide improved guide signing along Front Street and County Road 27 to encourage "through" traffic to "by-pass" the business district. Although guide signing presently exists along these routes we estimate that improved signing could be installed and would divert up to 5 percent of the traffic presently using Front Street. This alternate, by itself would have no significant impact on the quality of traffic service in the downtown area. (See Table 1)

Alternate B - Adams Street Extension

This alternate would provide for the extension of Adams Street to connect First Street to Third Street in accordance with the Village Planning Board proposal. The Adams Street extension should significantly improve traffic circulation within the business district. Access to the Village Parking fields from the west will be more convenient and with proper design treatment increased utilization of the existing Third Street parking field should result. We estimate that the Adams Street extension could divert up to 10 percent of the traffic presently using Front Street. (See Table 1)

Alternate C - "Paired-Parking" stalls

This alternate would modify the existing curb parking layout and introduce the "paired-parking" stalls concept along Front Street and Main Street (See Figure 8) Under this alternate marginal traffic friction, caused by vehicles maneuvering to park or unpark, would be eliminated. Although it is anticipated that some on-street parking spaces would be lost with "paired-parking", the number of lost spaces would not be significant.

Traffic flow and safety in the business district would be enhanced under this scheme. We estimate that this alternate would increase the capacity of Front Street-Main Street by approximately five percent. (See Table 1)

Alternate D - Improved Traffic Signal Control

Under this alternate the existing flashing signal at the intersection of Front Street and Main Street would be replaced with a signal which would provide continuous flow for the eastbound northbound movement and the southbound-westbound movement. (See Figure 9) One or two parking spaces on the west side of Main Street at the intersection would have to be eliminated under this alternate. We estimate this scheme would increase capacity less than five percent.

Alternate E - Curbed On-Street Parking Removal

This alternate would remove on-street parking along Front Street-Main Street with replacement off-street parking provided as an integral part of the plan. The extent of on-street parking removal could vary. However, the two most desirable alternatives would be "one-side" removal (Alt. E-1) and "both side" removal (Alt. E-2). "Alternate side of the street parking" is not considered practical for the Village to implement.

The removal of on-street parking will minimize marginal friction to the traffic stream, increase roadway capacity and improve intersectional and driveway sight visibility for improved safety. Adequate off-street truck delivery and loading areas are required under this scheme.

Table 1 summarizes the increased street capacity and quality of traffic flow anticipated under various parking removal schemes.

Alternate F - One-Way Street System

This alternate would establish a one-way street circulation system through the business district. (See Figure 10) Front Street would be one-way eastbound from Third Street to Main Street, while South Street would be one-way westbound from First Street to Third Street. Main Street would be converted to one-way northbound flow from Front Street to Webb Street, and First Street would be one-way southbound from Webb Street to South Street.

A one-way street system in Greenport would provide increased capacity and safety. Intersectional conflicts and delays would be significantly reduced and we would expect a significant reduction in accidents. Table 1 shows the increased highway capacity and the level of traffic service provided by the one-way street system with various degrees of parking restrictions. Alternate F-3 (one-way with no parking) would offer the opportunity to widen sidewalks along Front Street to provide more adequately for pedestrian traffic.

Such general improvements in traffic flow must be balanced against the following disadvantages:

- . some vehicles must travel extra distances to reach their destination.
- . motorists unfamiliar with the area may become confused with the one-way street pattern.
- . emergency vehicles, such as fire trucks, may need to take a more circuitous route to reach their destinations.

Improved traffic movement and increased safety generally produce broad economic benefits both to adjacent land users and to the general public. Nevertheless, along commercial streets where one-way traffic flow is proposed, it is not unusual for merchants to object and contend that one-way streets will adversely affect their trade.

Studies made throughout the country have generally tended to disprove such claims. Moreover, where one-way systems have once been implemented, many businessmen formerly opposed to the one-way street plan have become their staunchest supporters.

Alternate G - Do Nothing

This alternate essentially accepts the existing traffic situation and does nothing. The results of such action will be complete strangulation of peak period traffic movement in the Village. We believe that ultimately such traffic conditions would adversely impact the business district's economic vitality and prosperity. (See Table 1)

Summary - Traffic Flow Improvements

It is not the intent of this report to recommend a specific solution to the traffic flow problems in the Greenport business district. We have presented a series of alternatives to improve traffic movement in the downtown area which can be implemented independently of each other or in conjunction with each other.

It is essential that the Village recognize that present traffic conditions during the summer months have reached saturation levels and that positive action is required to avoid major traffic problems in the future. We believe the key to providing significant traffic relief in the Village is through the institution of a one-way street circulation system and/or the selected prohibition of on-street parking in the downtown area. If the Village is to continue to prosper as the tourist and commercial center of the North Fork, it is essential that an adequate street system be provided to accommodate its orderly growth and redevelopment.

TABLE 1
ALTERNATIVE SOLUTIONS
CAPACITY INCREASE & LEVEL OF TRAFFIC SERVICE

ALTERNATIVE-	% Diversion or % Inc. Capacity	Exist.	Level of Traffic Service		
			+25% Volume Increase	+50% Volume Increase	+75% Volume Increase
Alt. A - Guide Signing	-5% Diversion	E	F	F	F
Alt. B - Adams St. Ext.	-10% Diversion	D	F	F	F
Alt. C - "Paired - Parking"	+5% Capacity	E	F	F	F
Alt. D - Improved Signal Control	+5% Capacity	E	F	F	F
Alt. E - Removal of on-street Parking					
E-1-2-way-no parking 1-side	+15% Capacity	D	F	F	F
E-2-2-way-no parking 2-sides	+70% Capacity	B	C	D	E
Alt. F - One-way street system					
F-1-1-way-parking 2 sides	+30% Capacity	C	E	F	F
F-2-1-way-no parking 1 side	+45% Capacity	B	D	E	F
F-3-1-way-no parking 2-sides	+100% Capacity	B	B	C	D
Alt. G - Do Nothing 2-way - parking 2 sides	—	E	F	F	F

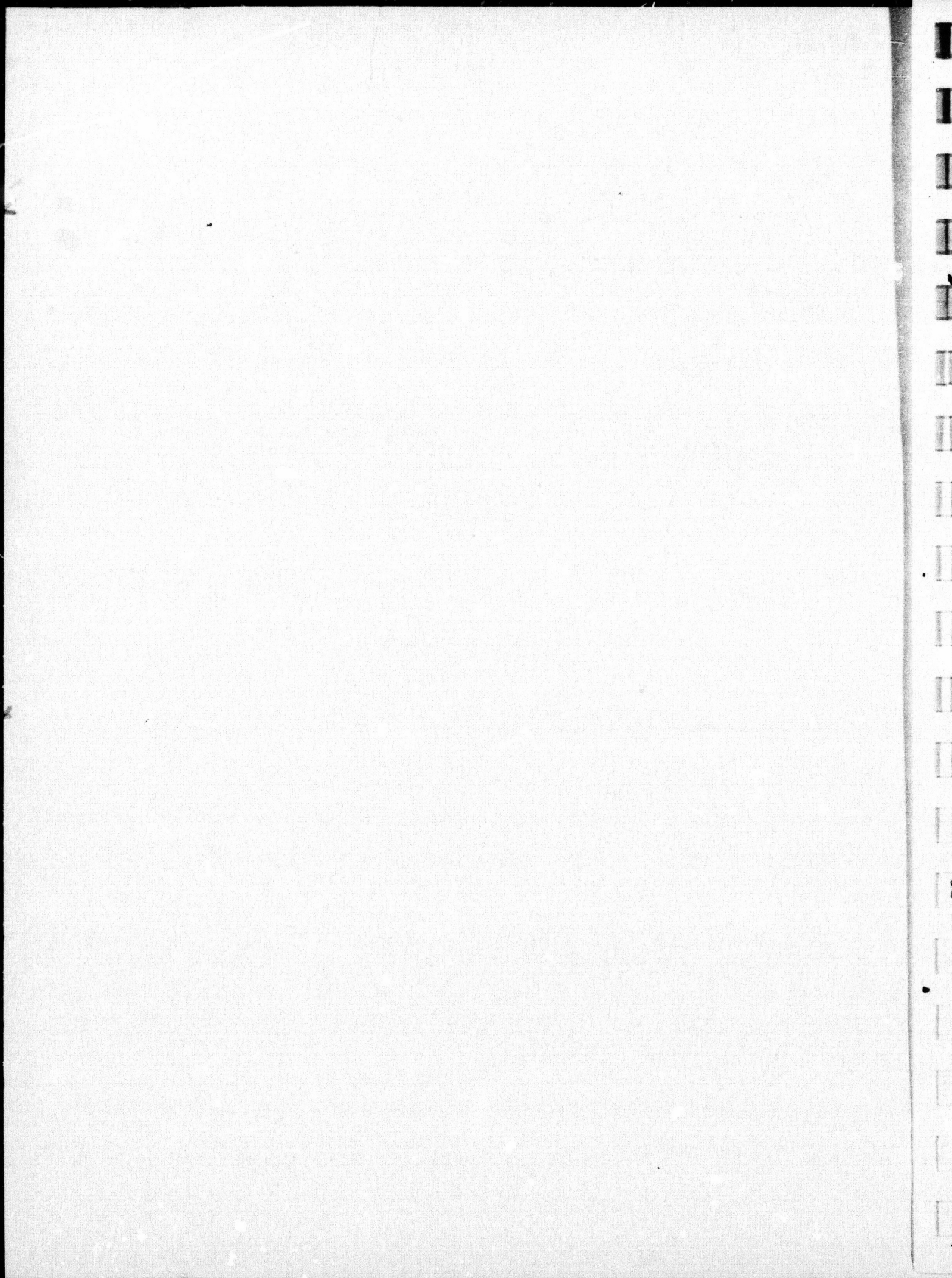
This Table is a general summary of the traffic flow benefits which can be anticipated from the various alternate solutions presented in this report. Benefits are expressed by two indicators: Street Capacity and Level of Traffic Service.

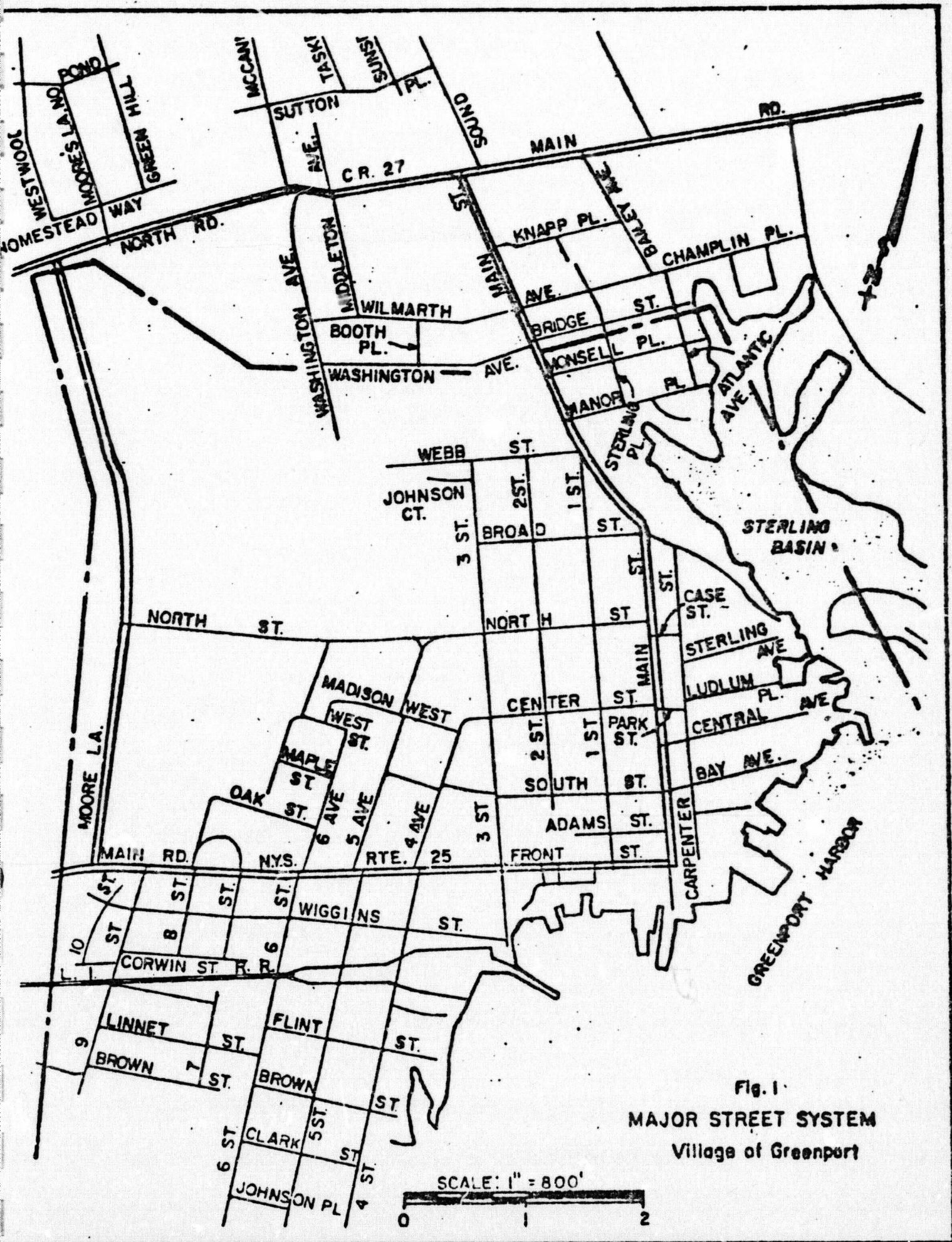
Level of Traffic Service is a qualitative measure of the adequacy of traffic flow in the downtown area. Six levels are used which range from Level A (excellent service) to Level F (very poor service). The following levels of service descriptions are presented:

- Level A - excellent service (free flow in downtown area, some stops will occur)
- Level B - good service (delays in downtown area are not unreasonable)
- Level C - fair service (delays in downtown area are significant, but acceptable)
- Level D - tolerable service (delays in downtown area are tolerable)
- Level E - poor service (congestion in downtown area)
- Level F - very poor (stop and go traffic)

Levels of service are listed for four different traffic conditions; existing traffic volumes, a 25% increase in traffic volumes, a 50% increase and a 75% increase.

Generally, Planning programs attempt to provide a minimum level of service C in a downtown area.





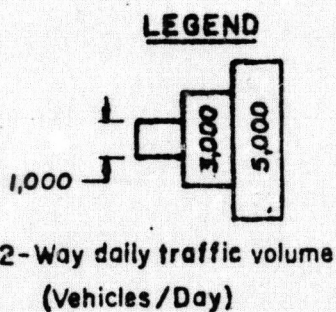
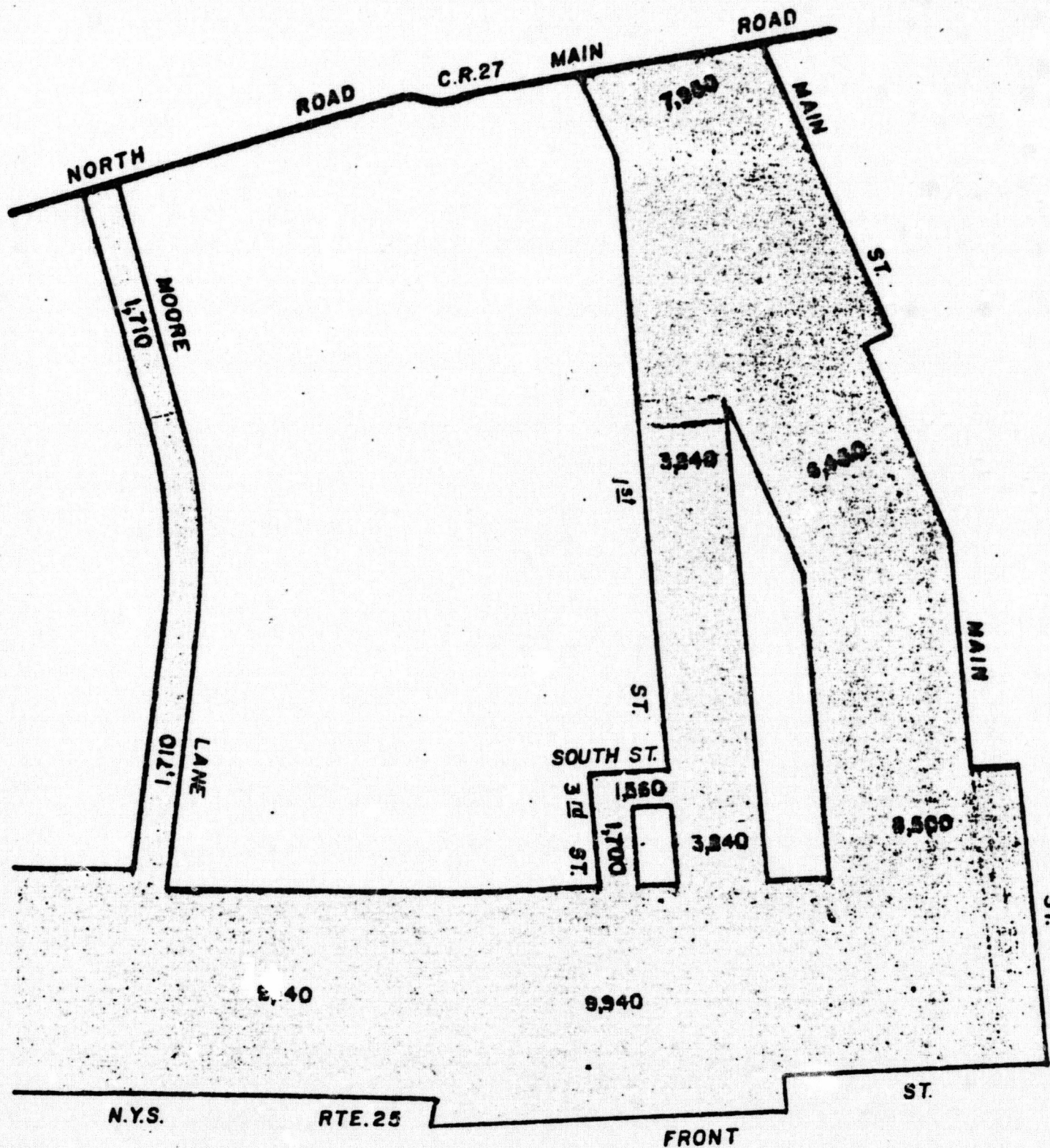


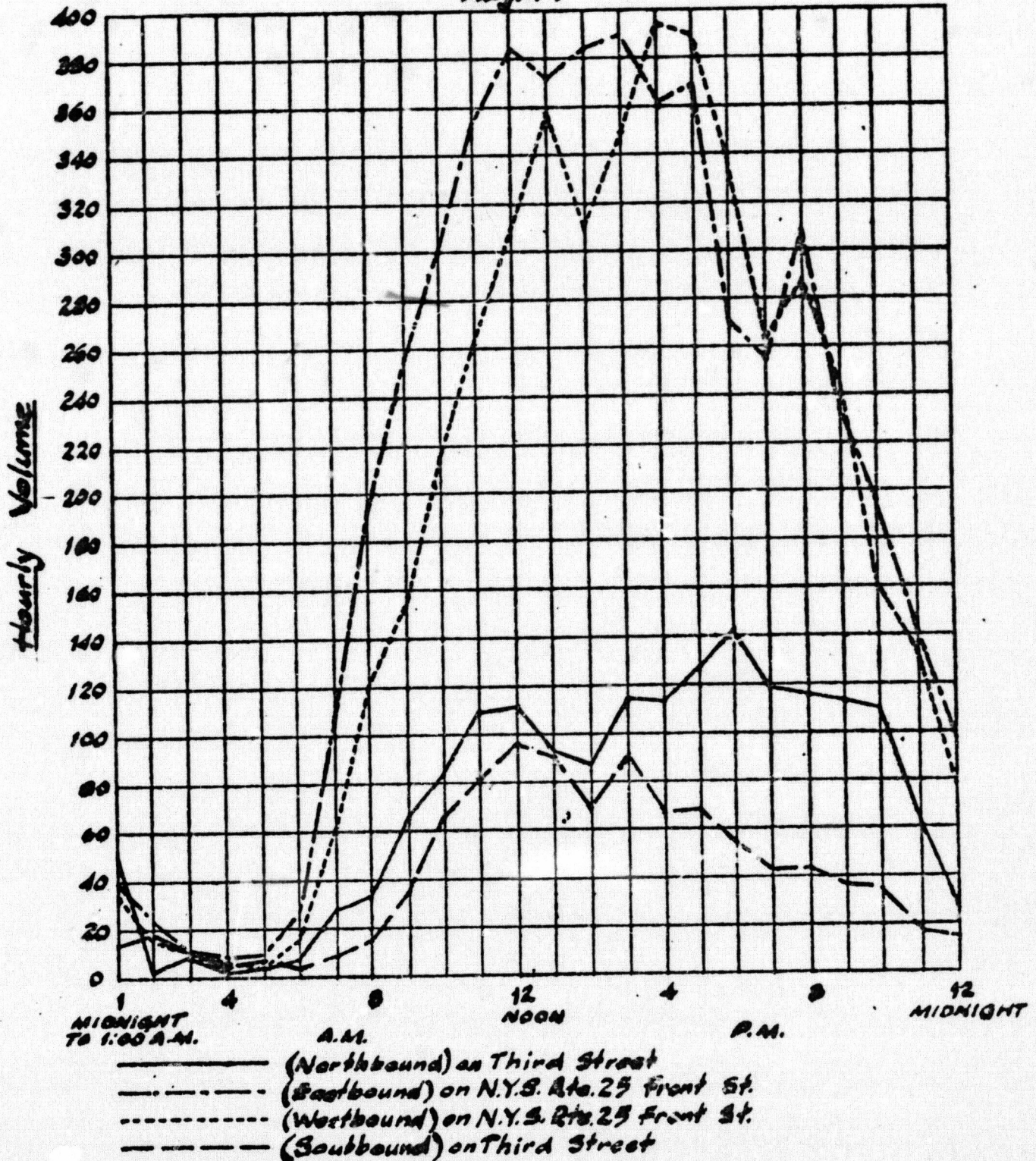
Fig.-2
TRAFFIC FLOW MAP
GREENPORT BUSINESS DISTRICT

HOURLY VARIATIONS OF TRAFFIC VOLUMES

NY.S.-RTE. 25 - FRONT ST.

THIRD STREET
Village of Greenport

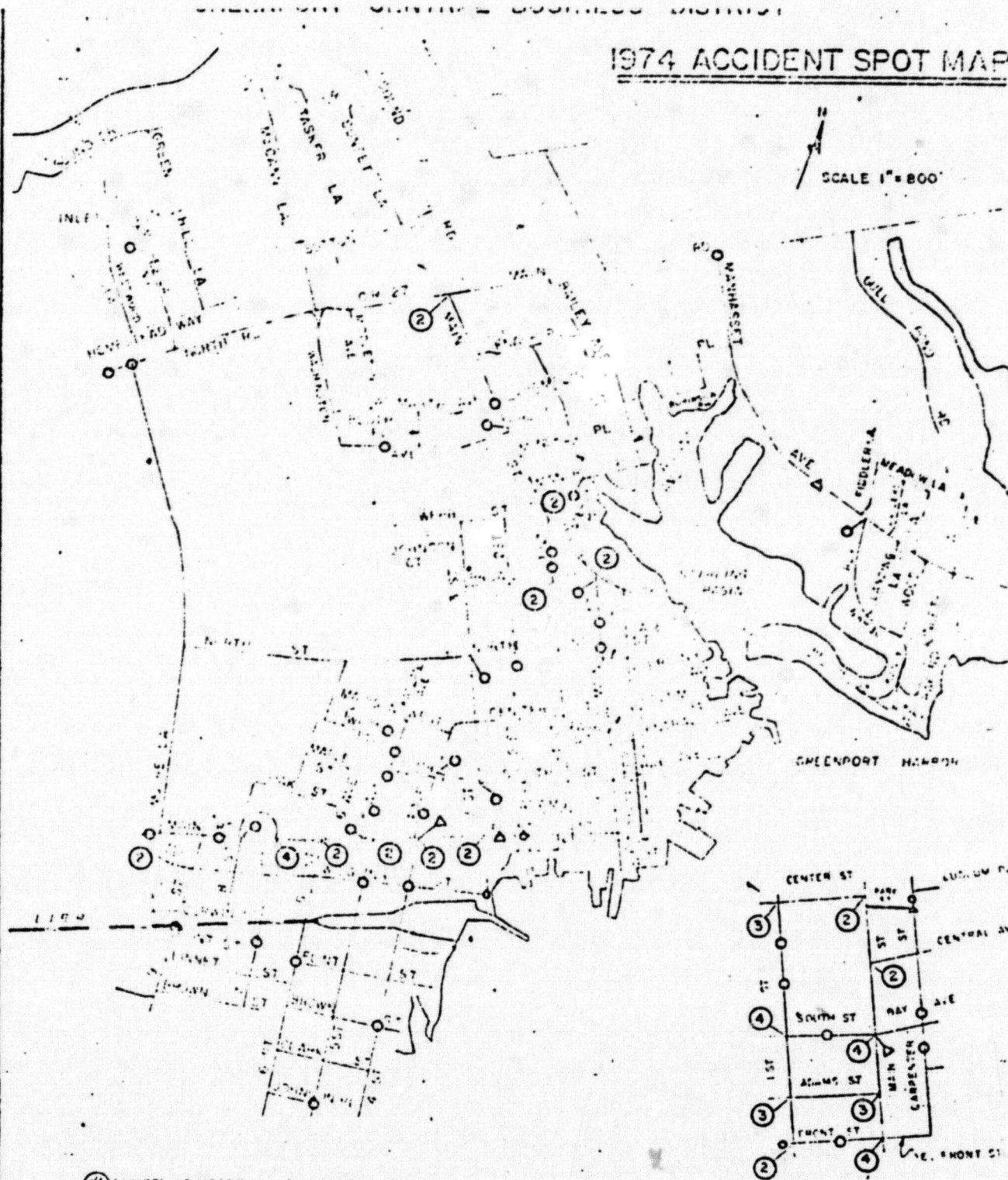
Aug. 74



Suffolk County Traffic Safety Board

1974 ACCIDENT SPOT MAP

SCALE 1"=800'

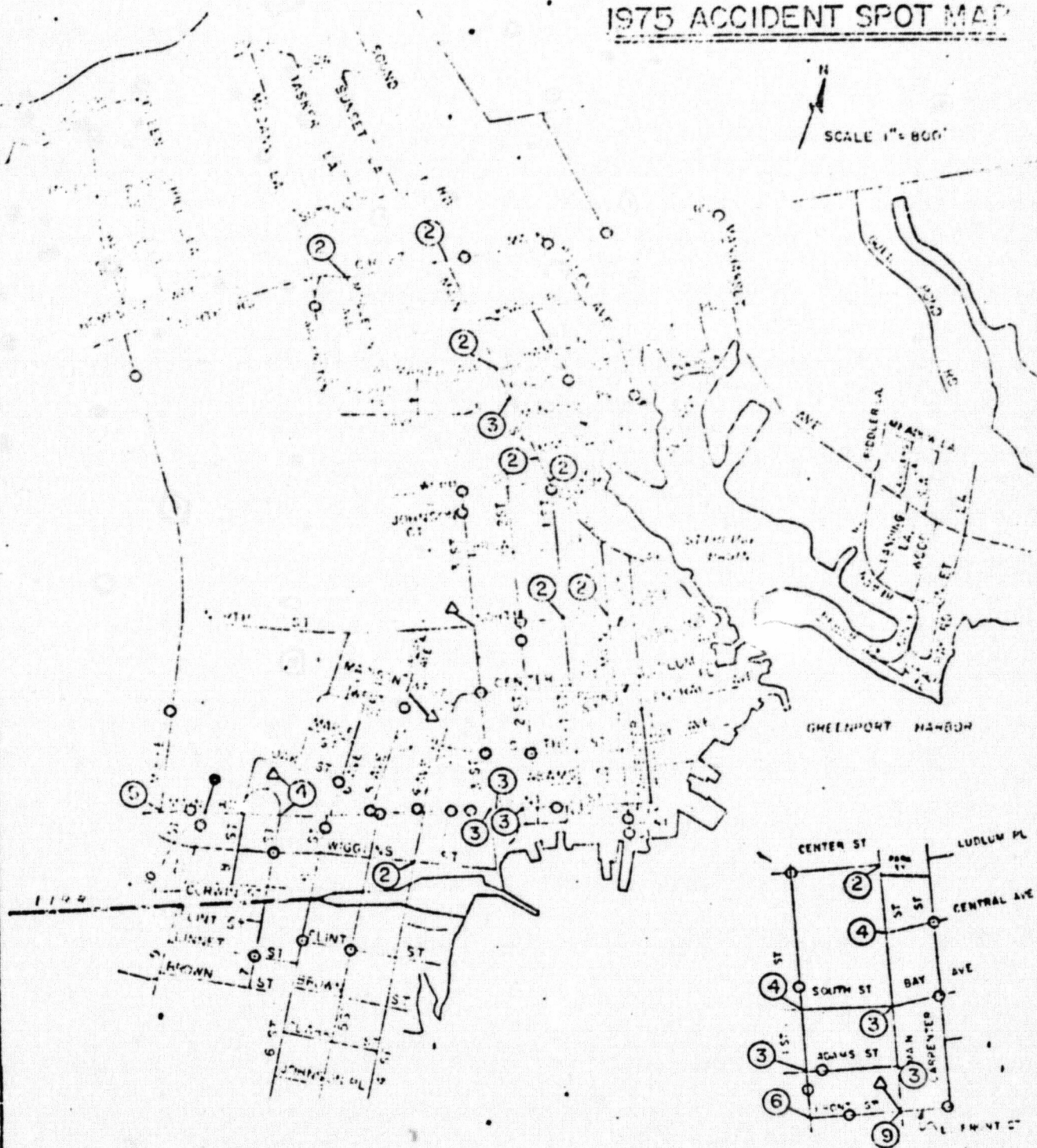


- (#) NUMBER OF MOTOR VEHICLE ACCIDENTS
(N/A) NO DATA, LAT LOCATION INDICATED
- MOTOR VEHICLE ACCIDENT - ONE
 - MOTOR VEHICLE FATAL ACCIDENT
 - △ PEDESTRIAN/BICYCLE ACCIDENT
 - ▲ PEDESTRIAN/BICYCLE FATAL ACCIDENT

SUFFOLK COUNTY
TRAFFIC SAFETY DEPT.
Fig. 4

1975 ACCIDENT SPOT MAP

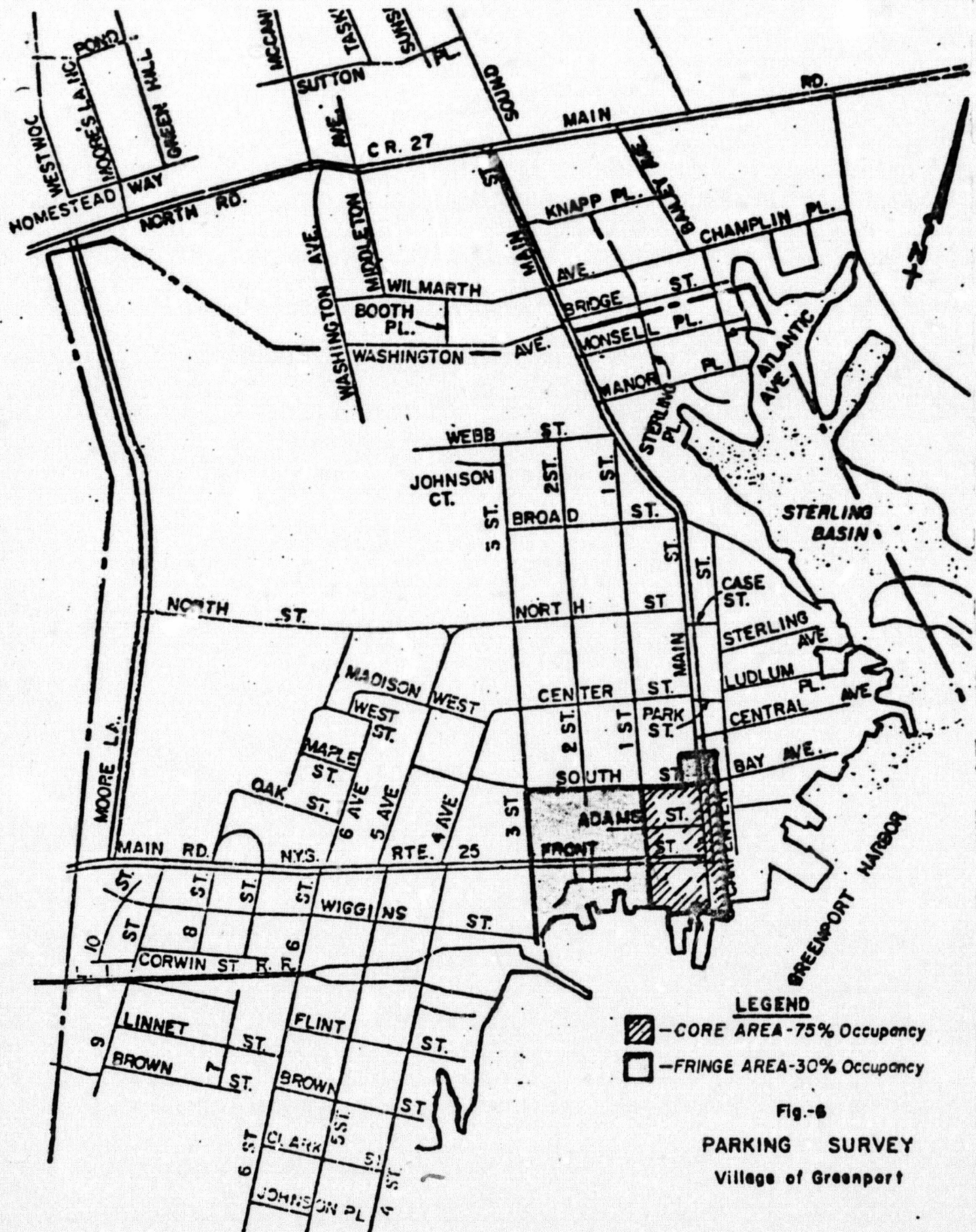
N
SCALE 1" = 800'

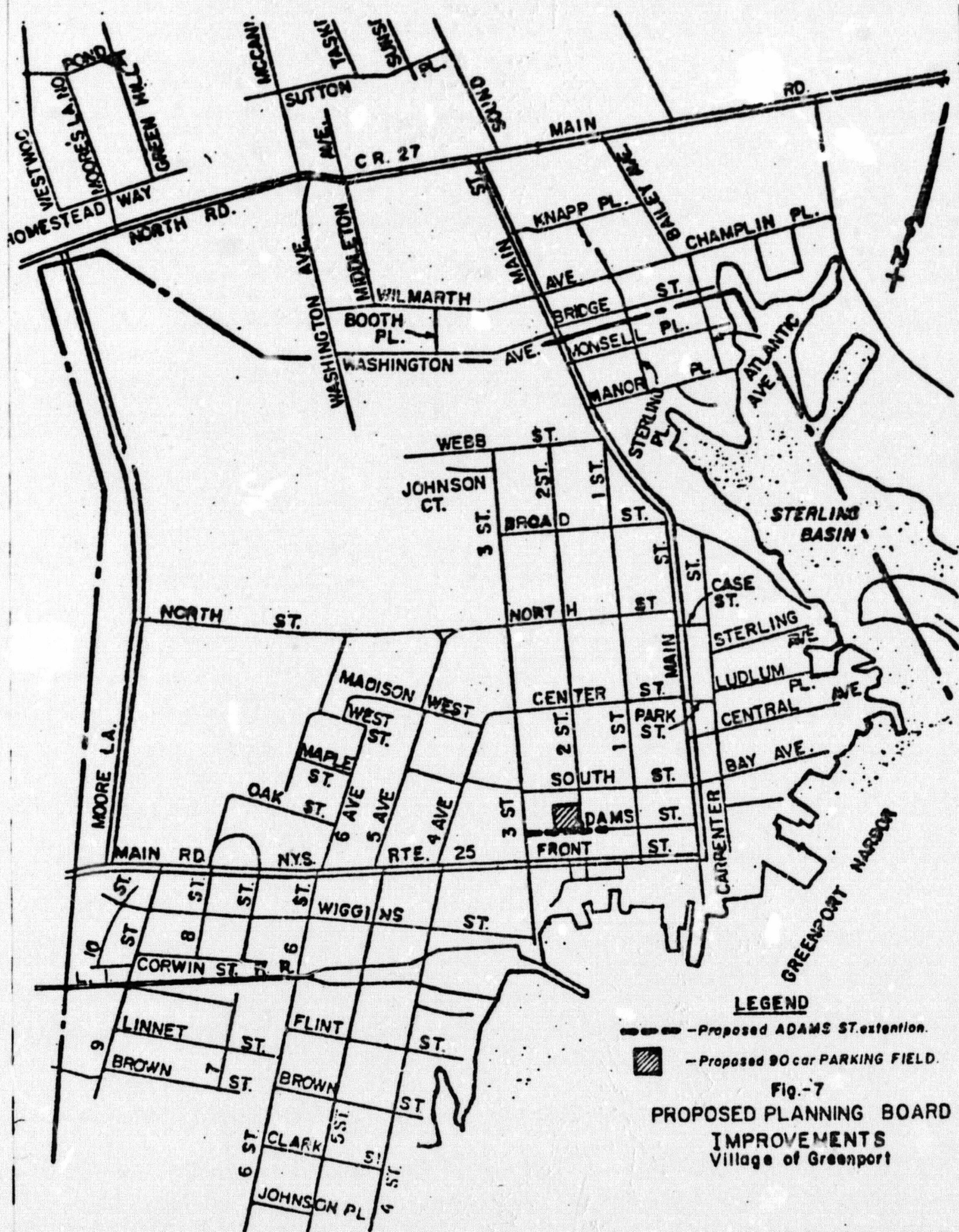


- ② NUMBER OF MOTOR VEHICLE ACCIDENTS (NON FATAL) AT LOCATION INDICATED
- MOTOR VEHICLE ACCIDENT - ONE
- MOTOR VEHICLE FATAL ACCIDENT
- △ MOTOR VEHICLE FATAL ACCIDENT
- ▲ MOTOR VEHICLE FATAL ACCIDENT

SUFFOLK COUNTY
TRAFFIC SAFETY DEPT.

Fig. 5

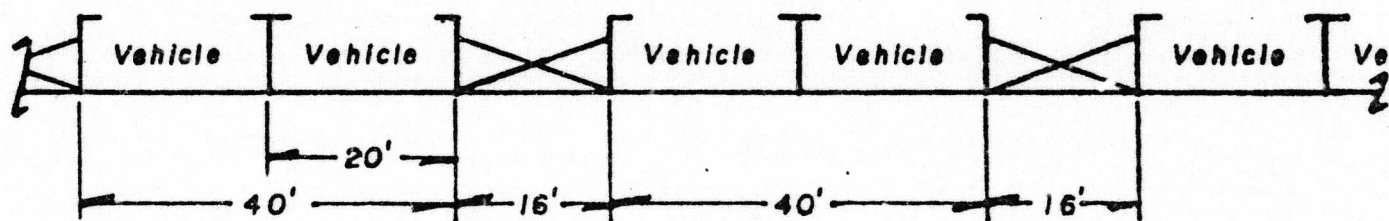




LEGEND

- Proposed ADAMS ST. extension.
- Proposed 90 car PARKING FIELD.

Fig.-7
**PROPOSED PLANNING BOARD
 IMPROVEMENTS**
 Village of Greenport



TYPICAL
PAIRED PARKING LAYOUT

Fig.-8

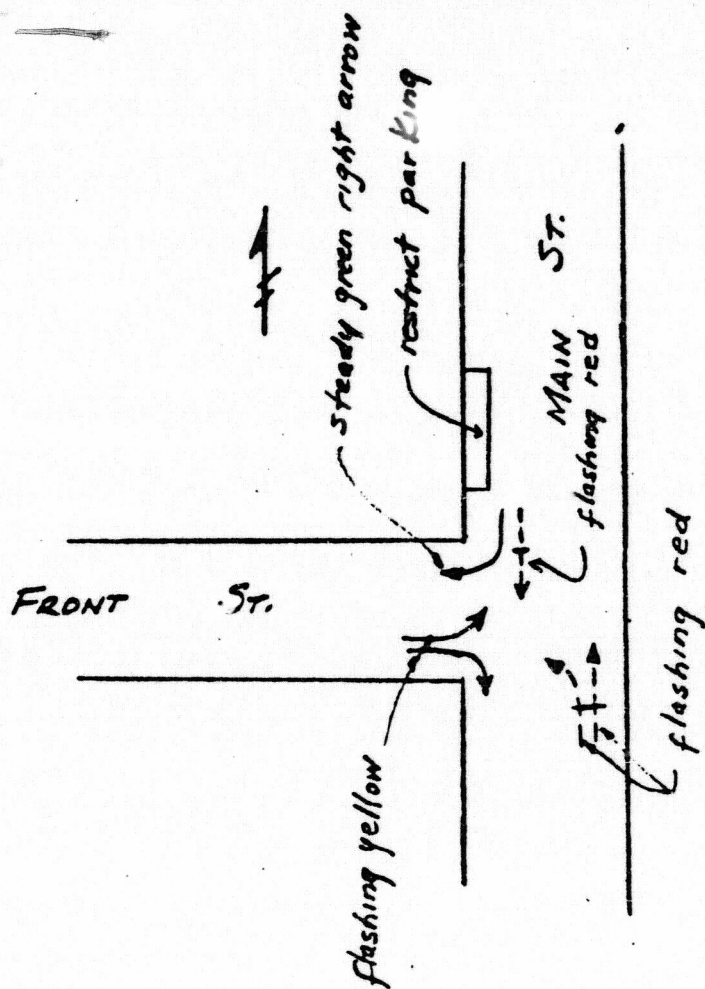
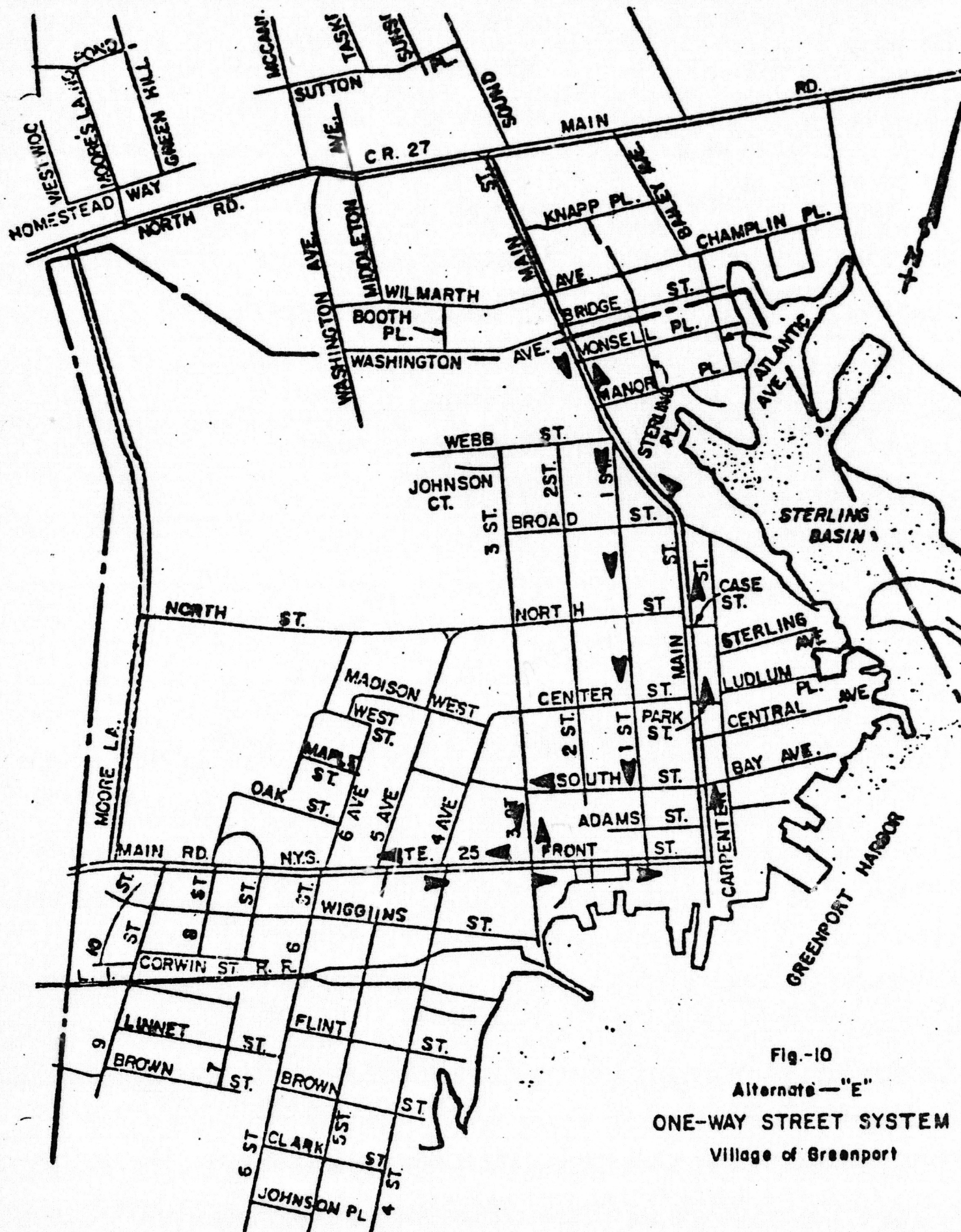


FIG. 9
 PROPOSED TRAFFIC SIGNAL PHASING
 FRONT ST. - MAIN ST.
 VILLAGE OF GREENPORT



APPENDIX

**Traffic Control
Main Street - First Street - Webb Street
(Steamboat Corners)**

As part of the traffic study conducted in the Village of Greenport, Village officials requested this Department to investigate traffic conditions at the intersection of Main Street-First Street-Webb Street.

Traffic volumes were obtained at the intersection during August 1976 and are attached. Based upon our investigations and a review of the traffic volumes at this location*, we would recommend that a three-color traffic signal be installed at this location. During the non-summer period, the signal should be placed on flashing operation. In addition, as part of the signal installation, we would recommend that Webb Street be converted to one-way westbound between Main Street and Second Street.

*Recommendation based upon existing two-way traffic patterns being retained at this location. With one-way circulation, traffic signal control is not required.

RT25

TRAFFIC VOLUME COUNT

 Job No. 8P
 Counter No. SOUTHOLD
 Town GREENHILL
 Hamlet GREENHILL

 Location: on MAIN STREET
200 ft. N E W of FIRST STREET
 Controlling traffic N & S W bound
 Set by GG & PC Time 12:20 PM Day 8/25/76
 Removed by GG & PC Time 11:30 AM Day 9/2/76

Day	Mon.	Tues.	Wed.	Thurs.	Fri.	Sat.	Sun.	Total	A W D T
Date	8/30	8/31	8/25	8/26	8/27	8/28	8/29		
9/1 8 A.M.									
12-1	34	35	16	26	27	32	66	233	23
1-2	10	2	5	3	5	24	36	95	5
2-3	14	4	8	10	11	28	30	94	9
3-4	3	3	1	6	5	18	21	52	3
4-5	2	5	5	6	0	12	19	49	5
5-6	14	10	8	6	0	15	13	16	10
6-7	53	35	33	36	4	55	47	359	37
7-8	108	108	101	97	2	52	72	532	104
8-9	106	105	120	115	2	111	126	523	112
9-10	46	55	27	15	1	71	60	274	150
10-11	183	155	171	177	2	259	235	1122	172
11-12	230	214	230	250	2	285	251	1460	331
P.M.									
12-1	283	281	256	264	4	320	338	1742	271
1-2	297	265	217	238	252	281	301	1251	254
2-3	188	263	235	254	290	282	280	1722	246
3-4	288	273	220	227	272	296	275	1551	256
4-5	277	274	260	257	331	301	267	1923	230
5-6	150	175	96	130	140	134	123	922	127
6-7	190	166	146	186	191	236	203	1212	176
7-8	163	163	158	166	170	207	200	1227	164
8-9	149	148	117	152	189	211	163	1122	151
9-10	113	95	103	118	155	156	117	857	117
10-11	89	62	98	82	83	128	106	648	93
11-12	55	54	52	73	90	101	58	483	65
Total	3045	2950	2677	2324	2195	2115	2407	20792	3068
% of total									

$$\frac{3195}{\text{total}} \times \frac{.74}{\text{factor}} = \frac{2364}{\text{AADT}}$$

Weather

 Remarks * ESTIMATED AADT - APPARENTLY ONE OR MORE
VEHICLES IS PARKED ON THE HOSE DURING THIS
HOOR DAILY.

 Compiled by GG
 Checked by JM

 Date 9-8-76
 Date 9-9-76

Suffolk County Traffic Safety Department

TRAFFIC VOLUME COUNT

Job No. TP
 Counter No. SOUTHOLD
 Town GREENPOND
 Hamlet GREENPOND

Location: on FIRST STREET
200 ft. N E (6) W of MAIN STREET
 Controlling traffic (N) E S W bound

Set by GG+DC Time 12:30 PM Day 8/25/76
 Removed by GG+DC Time 11:30 AM Day 9/12/76

Day	Mon.	Tues.	Wed.	Thurs.	Fri.	Sat.	Sun.	Total	A W D T
Date	8/30	8/31	8/25	8/26	8/27	8/28	8/29		
9/1 A.M.									
12-1	17	7	13	14	10	11	29	101	12
1-2	11	5	2	3	5	9	14	44	5
2-3	3	2	2	1	1	6	8	23	2
3-4	1	2	1	1	2	7	4	18	1
4-5	3	4	4	6	3	6	2	28	4
5-6	3	5	6	3	5	8	9	39	4
6-7	31	35	31	32	28	29	30	216	31
7-8	52	65	66	56	42	20	47	358	56
8-9	62	90	78	54	55	54	72	455	67
9-10	73	114	71	81	81	93	108	621	84
10-11	107	153	105	105	76	133	144	823	109
11-12	132	157	101	148	80	193	127	926	123
P.M.									
12-1	150	135	126	138	114	187	137	987	133
1-2	120	180	128	132	144	143	105	752	141
2-3	123	187	114	137	134	154	93	947	139
3-4	141	174	131	128	162	133	94	963	147
4-5	139	128	135	142	184	168	93	989	146
5-6	143	114	115	122	144	123	77	738	128
6-7	91	87	92	80	112	107	63	632	92
7-8	55	72	87	76	84	82	55	511	75
8-9	42	50	73	77	63	70	43	417	61
9-10	41	27	80	53	74	50	50	375	55
10-11	23	31	29	31	38	47	43	242	30
11-12	27	24	26	20	26	32	27	182	24
Total	1528	1848	1616	1640	1357	1870	1474	11703	1670
% of total									

$$\frac{1671}{\text{total}} \times \frac{.74}{\text{factor}} = \frac{1237}{\text{AADT}}$$

Weather _____
 Remarks _____

Compiled by DC Date 9-8-76
 Checked by JM Date 9-9-76

Suffolk County Traffic Safety Department

RT 25

TRAFFIC VOLUME COUNT

Job No. 1219
 Counter No. 1219
 Town SOUTHCOLD
 Hamlet GREENFAR

Location: on MAIN STREET
100 ft. (N)E & W of WEBB STREET
 Controlling traffic: N & (S)W bound
 Set by GG4DC Time 12:50 PM Day 8/25/76
 Removed by EC966 Time 11:55 AM Day 9/2/76

Day	Mon.	Tues.	Wed.	Thurs	Fri.	Sat.	Sun.	Total	A W D T
Date	8/30	8/31	8/25	8/26	8/27	8/28	8/29		
9/1 A.M.									
12-1	34	25	22	27	27	46	64	245	27
1-2	14	9	13	16	10	27	28	117	12
2-3	4	5	6	10	3	18	28	74	5
3-4	6	2	3	6	5	17	18	57	4
4-5	11	5	8	12	12	9	18	75	10
5-6	33	24	16	25	21	11	18	143	24
6-7	115	75	72	67	93	56	89	567	84
7-8	173	164	162	165	132	106	133	1035	159
8-9	290	236	234	237	212	208	241	1652	242
9-10	308	260	280	292	223	364	319	2046	273
10-11	338	355	299	368	287	462	343	2502	329
11-12	266	361	372	371	346	444	378	2272	362
P.M.									
12-1	415		396	369	363	407	355	2305	388
1-2	415	366	359	350	339	424	319	2522	356
2-3	387	387	330	384	454	413	372	2732	389
3-4	447	379	372	372	434	467	417	2793	402
4-5	375	363	407	411	436	420	347	2759	398
5-6	347	354	340	387	376	357	295	2456	361
6-7	230	233	240	262	259	266	279	1759	245
7-8	268	279	305	330	305	325	297	2159	297
8-9	196	179	208	209	240	198	189	1419	206
9-10	133	106	157	161	176	197	131	1061	147
10-11	80	84	98	107	111	132	47	709	96
11-12	54	52	59	52	95	122	46	480	62
Total	4673	4303	4758	4945	4914	5496	4871	34010	4878
% of total									

$$\frac{4965}{\text{total}} \times \frac{.74}{\text{factor}} = \frac{3674}{\text{AADT}}$$

Weather _____
 Remarks _____

Compiled by DC Date 9-8-76
 Checked by DM Date 9-9-76

Suffolk County Traffic Safety Department

TRAFFIC VOLUME COUNT

Job No. 3P
 Counter No. SCUTTLE
 Town GREENSBORO
 Hamlet GREENSBORO

Location: on WEBB STREET
150 ft. N E & (W) of FIRST STREET
 Controlling traffic: N (E) S W bound

Set by GGYDC Time 12:40 PM Day 8/25/76
 Removed by GGYDC Time 11:45 AM Day 9/2/76

Day	Mon.	Tues.	Wed.	Thurs.	Fri.	Sat.	Sun.	Total	A W D T
Date	8/30	8/31	8/25	8/26	8/27	8/28	8/29		
9/1 A.M.									
12-1	3	0	0	3	1	3	6	16	1
1-2	3	1	0	0	0	3	1	8	1
2-3	0	1	0	1	0	0	0	2	0
3-4	1	0	0	0	0	1	1	3	0
4-5	0	1	2	0	0	0	0	3	1
5-6	4	2	5	3	1	2	0	17	3
6-7	7	8	7	4	6	3	2	37	6
7-8	25	13	18	18	9	4	3	80	17
8-9	9	9	9	12	11	10	6	66	10
9-10	16	12	10	4	6	14	10	72	10
10-11	15	8	17	13	16	19	20	123	14
11-12	28	17	14	17	17	38	20	142	18
P.M.									
12-1	21	25	20	16	20	29	29	153	21
1-2	24	16	26	17	24	18	17	147	22
2-3	24	21	15	27	20	27	13	147	21
3-4	29	24	21	24	26	23	27	174	25
4-5	27	16	20	20	19	51	16	169	20
5-6	25	20	17	18	19	29	12	140	20
6-7	16	14	13	18	25	25	26	137	17
7-8	24	28	17	13	11	22	15	130	19
8-9	6	6	20	10	12	18	8	80	11
9-10	7	10	13	6	8	10	8	62	9
10-11	7	3	8	7	2	8	3	32	5
11-12	7	3	2	3	3	5	4	27	4
Total	328	261	274	254	258	362	247	1954	275
% of total									

$$\frac{283}{\text{total}} \times \frac{74}{\text{factor}} = \frac{209}{\text{AADT}}$$

Weather _____
 Remarks _____

Compiled by GG Date 9-8-76
 Checked by MM Date 9-9-76

Suffolk County Traffic Safety Department

Proposed 90 car Parking Field

The Village Planning Board has proposed the construction of a 90 car parking field to the north of the Adams Street extension. The parking surveys conducted for this study were limited in scope and not intended for developing a parking program for the Village. However, based upon our review of traffic conditions in the area, we offer the following comments:

1. In order to provide for the orderly growth and redevelopment of the downtown area, both adequate traffic and parking facilities must be provided. The provision of additional parking facilities without commensurate improvements in traffic flow would have limited value to any long range redevelopment program.

2. Adequate parking restrictions and police enforcement are essential to an effective parking program in the Village. Parking spaces close to the stores should be restricted to short term parking (15-30 minutes). All day parking should be located furthest from the stores and intermediate parking (2-3 hours) should be located in between.

3. The new 90 car parking field would open up the existing Third Street parking field to increased usage.

VERIFIED STATEMENT

of

JAMES MONSELL

My name is James Monsell and I am the Superintendant of Public Utilities of the Village of Greenport and am fully familiar with the facts and circumstances herein contained.

I have been a life long resident of the Village of Greenport. My father was the Superintendant of Public Utilities for many years. I began working for the Department of Public Utilities in 1946 and was appointed Superintendant of the public sewer, water and electric companies in 1964 and have continued to serve in that capacity to date. Your deponent has intimate knowledge of the sewer, water and electrical systems within the Village of Greenport.

Furthermore, as a member of the Planning Board of the Village of Greenport, your deponent is fully familiar with the Affidavit of Jonathan Y. Richmond, Chairman of said Planning Board and adopts the same as if completely set forth herein.

Your deponent limits this Affidavit to the sewer and water pipes as they may be effected by applicant's proposal.

Third Street and the surrounding streets are small residential streets with the sewer and water pipes laid thereunder. As the said sewer pipes are originally three and four feet under the street surface and are very old, your deponent has a very real concern that if the automobile and tractor trailer traffic in and about Third Street may well rupture the pipes in that area. This, of course,

would necessitate a complete re-building of that section of the sewer and water pipes, together with a complete re-building of the road so as to raise the capacity thereof from a regular residential street to state specifications for a highway, such as Route 25.

"TEXACO ALLEY"

"Texaco Alley" is a part of the Mitchell parking complex and as such is designed to handle light vehicular traffic on a sporadic basis. Thus, the oil and sand surface is sufficient for these purposes. The composition of the soil thereunder consists of ashes from the Long Island Railroad yard, oyster shells and general fill put in between 1920 and 1930. In this ashes, oyster shell and general fill bed are numerous lateral sewer lines and water lines, which connect to the main sewer and water lines at the intersection of First and Front Streets.

Additionally, there is a storm drain which runs from the intersection of First and Front Streets through "Texaco Alley" into the main drain located there. The piping underneath "Texaco Alley" is only two feet under the surface. That two feet covers four inch diameter clay vitrified sewer pipes of very considerable age, together with two inch galvanized water pipes, also of considerable age. These, in addition to the storm sewer pipe, are protected by approximately two feet of ashes, oyster shells and general fill and the oil and sand surface of "Texaco Alley". Clearly, this is insufficient protection for the pipes which most assuredly will rupture under the strain as proposed by the applicant.

SEWER AND WATER PIPES ALONG FIRST STREET

The sewer lines in First Street were laid in approximately 1890. They consist of clay vitrified pipe and the water lines are galvanized pipe. First Street also is a small residential with a layer of about six inches of oil and stone black top over a gravel bed.

The sewer connections at the intersection of First and Front Street are slightly less than two feet under the surface of the road. This is totally inadequate for the expected traffic which will move along First Street. This is particularly true if a heavy vehicle, such as loaded tractor trailer trucks, utilize First Street. It has been argued and it is true that tractor trailer trucks occasionally presently use First Street to make deliveries to some half a dozen stores in the area. However, this vehicular traffic is very small. Also, it must be remembered that tractor trailer trucks delivering from New York City begin in New York City fully loaded and make deliveries as they proceed East. By the time they reach Greenport, the easterly most business district on Northern Long Island, they are virtually empty with the exception of the items designated for delivery at Greenport. Therefore, they have not constituted a hazard to the shallow sewer pipes in First Street. However, as indicated before any deviation from this traffic flow would create an extremely hazardous situation with regard to the sewer and water pipes.

If the pipes were ruptured, they would have to be repaired as soon as possible. This would necessitate a considerable expenditure by the Village and would effectively close First Street for the period of time of the repair. However, rather than repair the sewer pipes,

it would probably be decided that the best approach would be to replace the sewer pipes in their entirety and change the grading thereof so as place them much deeper than they are at present. This, of course, would necessitate a far greater closing of the streets, easily for a three to four month period. The cost to the Village for replacing the pipes and perhaps pumping stations would be very high and would strain the finances of the Village, as well as the Village personnel.

In view of the foregoing, it is apparent that the applicant has not considered the permanent and substantial adverse effects that even the temporary permit would inflict upon the Village of Greenport. It is your deponent's opinion that whether or not the applicant is granted a three-year license or a permanent license, the damage to the Village of Greenport's sewer and water system will be very substantial. The Village of Greenport and its two thousand citizens will be, in effect, subsidizing the experiment of the applicant.

In conclusion, it is your deponent's opinion that the grant of the application, either permanently or temporarily, will necessitate the replacement of a substantial portion of the Village of Greenport's sewer and water system, together with substantial reconstruction thereof, all of which would be unnecessary if the application were denied.

Respectfully submitted,

James J. Monsell
JAMES MONSELL

STATE OF NEW YORK)
COUNTY OF SUFFOLK) ss.:

JAMES MONSELL, being duly sworn, deposes and says that he has read the foregoing statement, knows the contents thereof, and that the same are true as stated.

James J. Monsell
JAMES MONSELL
John J. Munzel
JOHN J. MUNZEL
NOTARY PUBLIC

Subscribed and sworn to before me, a Notary Public, this 16th day of May, 1977.

JOHN J. MUNZEL • NOTARY AT LAW • 616 BROADWAY • RIVERVIEW, NEW YORK 10901
No. 00-011102 • Suffolk County
Commission Expires March 20, 1978

My name is Robert G. Holzmacher, P.E., L.S., President, Holzmacher, McLendon & Murrell, P.C./H2M Corp., with offices located at 500 Broad Hollow Road, Melville, New York; 341 Conklin Street, Farmingdale, New York; and 40 Park Place, Newton, New Jersey.

I am familiar with the sewage and water facilities of the Village of Greenport.

It is anticipated by the applicant that there will be frequent traffic, including heavy trucks, over normal Village macadam street surfaces. It is our information that the cross section of the streets in the vicinity of Third Street south of Front Street, and First Street north of Front Street is macadam, covering a general gravel soil composition.

In the bed of Third Street, the sewer pipes are approximately 3 feet below the surface. In the bed of First Street at the intersection of First and Front Streets, the cross section reveals that the sewer pipe is 1.9' below the surface and in tidal waters. North to the intersection of Adam Street the sewer pipe is a little bit more than 2' below the surface.

It is also our information that the cross section of "Texaco Alley" is thin parking lot macadam over a gravel base, and underneath are lateral sewer and water pipes, together with a storm drain line from Front Street to the Bay.

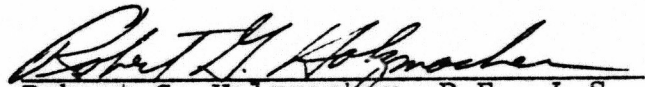
It is to be anticipated that the frequent traffic, including heavy truck traffic, will result in excessive loads and vibrations which will extend below ground to the sanitary sewer pipes below the street surfaces. Many of the sewers date from 1890 and are reported to be constructed of vitrified clay pipe with cement joints. Excess loads and vibrations can cause differential settlement of the surrounding earth and movement of the sewer and water pipes. When the sewer pipes shift and with relatively rigid joints of cement mortar, they are likely to rupture. When they open or rupture, raw untreated sanitary sewage will be discharged to the surrounding area, including the possibility of overflow to the public streets and infiltration into the groundwater. This would be a serious public health problem.

Our engineering requirements for sewer pipes are Class IV reinforced concrete pipe. When installed in roadways with less than two feet of cover, the sewer pipe must be encased in concrete a minimum 6 inches thick.

During the past few years, the Federal Environmental Protection Agency and the Health Department of the State of New York have been increasingly concerned in regard to the effect on the groundwater and health hazards resulting from leaking sewer joints. As a result of this concern, the Village of Greenport has been required to conduct Infiltration and Inflow Studies which are presently underway.

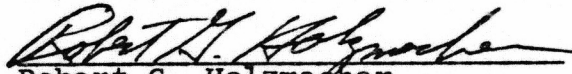
In conclusion, it would appear that the streets of the Village of Greenport are inadequate from a public health and safety point of view, to sustain the anticipated traffic envisioned by the applicant.

Respectfully submitted,

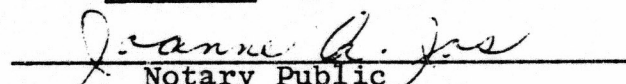

Robert G. Holzmacher, P.E., L.S.

STATE OF NEW YORK)
COUNTY OF SUFFOLK)

Robert G. Holzmacher, being duly sworn, deposes and says that he has read the foregoing statement, knows the contents thereof, and that the same are true as stated.


Robert G. Holzmacher

Subscribed and Sworn to before me
this 16th day of May, 1977.


Notary Public
JOANNE A. JOS
NOTARY PUBLIC, State of New York
No. 524632100 - Suffolk County
Cert. Filed in Nassau County
Term Expires March 30, 1978



[illegible]

DOCUMENT 363



BEFORE THE
INTERSTATE COMMERCE COMMISSION
IN THE MATTER OF
MASCONY TRANSPORT AND FERRY SERVICE, INC.

- INITIAL OPERATIONS -
NEW LONDON TO GREENPORT, L.I., N.Y.

DOCKET NO. W-1270

REPLY OF INTERVENOR
NEW YORK STATE DEPARTMENT OF TRANSPORTATION
PURSUANT TO ORDER OF INTERSTATE COMMERCE COMMISSION,
DIVISION 1, ACTING AS APPELLATE DIVISION, DATED
APRIL 5, 1977 (SERVICE DATE APRIL 8, 1977)

Intervenor's Representatives:

SANDRA M. CARON
Assistant Commissioner for Legal
Affairs, New York State Department
of Transportation
By Frederick Goldfeder
Associate Attorney
State Office Campus
Building 4, Room G-17
Albany, New York 12232
(518)457-6375

Attorney for Intervenor

DUE DATE: May 18, 1977

BEFORE THE
INTERSTATE COMMERCE COMMISSION

Docket No. W-1270

MASCONY TRANSPORT AND FERRY
SERVICE, INC. INITIAL OPERATIONS -
NEW LONDON TO GREENPORT, L.I., N.Y.

REPLY OF INTERVENOR
NEW YORK STATE DEPARTMENT OF TRANSPORTATION
PURSUANT TO ORDER OF INTERSTATE COMMERCE
C MISSION, DIVISION 1, ACTING AS APPELLATE
DIVISION, DATED APRIL 5, 1977 (SERVICE
DATE APRIL 8, 1977).

Comes now the Commissioner of Transportation of the State of New York and submits this reply to applicant's verified statements, in accordance with the above mentioned order of the Interstate Commerce Commission.

No position was taken previously, and none is now taken, relative to applicant's proposed service, except as to the provisions for traffic and the traffic impact on a State highway, to wit, State Route 25, as well as other highways in the State of New York. Our reply to applicant's verified statements is limited to this particular purpose of the Department's intervention.

Applicant's present proposal with respect to means of entry and exit to and from the parking, staging and slip areas evidences a considerable improvement over the proposals originally submitted. In particular, Appendices 1 and 2 to Applicant's Verified Statements provide for a sufficiently wide entry and exit to and from the terminal area to overcome the Department's previously expressed objections to the prior arrangement of a twenty-foot frontage on Front Street for access to the so-called Bohack property and the fourteen-foot alley which would have provided the only means of entry to and exit from the terminal area.

The need for extensive maneuvers to permit trucks or other vehicles larger than an ordinary passenger car to enter the terminal area and the probable congestion at the Bohack property would not appear to be present in connection with the presently suggested means of access to and from these points.

The parking space provided is only marginally adequate, on the New York State side. Applicant should be required to carefully control parking in its facilities to maximize use of available space. It should further be required to take

proper and adequate precautions to insure against parking or standing on street and traffic lanes by vehicles intended to board the ferry, or whose occupants desire to use the ferry while the vehicles remain on shore.

Our previously expressed reservations with respect to the parking and terminal areas remain. The presently proposed plan, as did the original plan, would require a surge of traffic to be introduced onto State Route 25 (Front Street) from the terminal area each time the ferry arrives at Greenport (See Appendix 2 attached to "Applicant's Verified Statements.") At the same time, or close to the same time, vehicles would be leaving the so-called Bohack Property to travel along Front Street to the terminal area.

Without adequate traffic control, vehicles competing for entry onto Front Street with those attempting to continue thereon would give rise to a serious increase in accident potential. To permit the unrestricted movement of traffic to and from the terminal area at each docking would result in serious traffic congestion, not only in the vicinity of the ferry properties, but for a considerable distance on both sides. As has been pointed out in the evidence submitted

by the New York State Department of Transportation in January, 1974, summer traffic on Front Street in Greenport, when ferry traffic will be at its peak, reaches design capacity.

Injection of additional traffic, particularly in a surge, without adequate control, would be dangerous and unwise.

Applicant should be required to devise a plan, acceptable to the Village and this Department, for control of traffic to minimize the impact on presently crowded conditions. Of course, any expense which might be incurred should be required to be borne by applicant.

It is respectfully urged that the Commission, if a certificate of convenience and necessity is granted to applicant, condition such certificate upon applicant's taking adequate measures in accordance with the foregoing and appropriate provision be made for the submission to the Commission of traffic impact studies and continuing jurisdiction by the Commission to make appropriate orders to insure safety of operations, with respect to traffic conditions, as may be necessary from time to time.

VERIFICATION

State of New York)
)
County of Albany) ss:

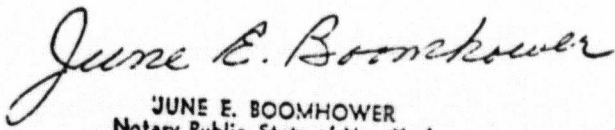
Frederick Goldfeder, as Associate Attorney employed by the New York State Department of Transportation, affirms under penalty of perjury that he has read the foregoing reply and knows the contents thereof, that the same is true to his own knowledge except as to the matters therein alleged upon information and belief and as to those he believes it to be true.

The reason that this verification is made by affirmant instead of the Commissioner of Transportation is that the Commissioner is an Officer of the State acting in his official capacity and affirmant is an employee of the State having knowledge of the facts.

The source of affirmant's information and grounds for belief are records of the Department and statements of employees of the Department made in their official capacities.

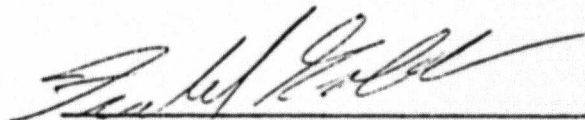

FREDERICK GOLDFEDER

Affirmed before me
this 17th day of May, 1977.

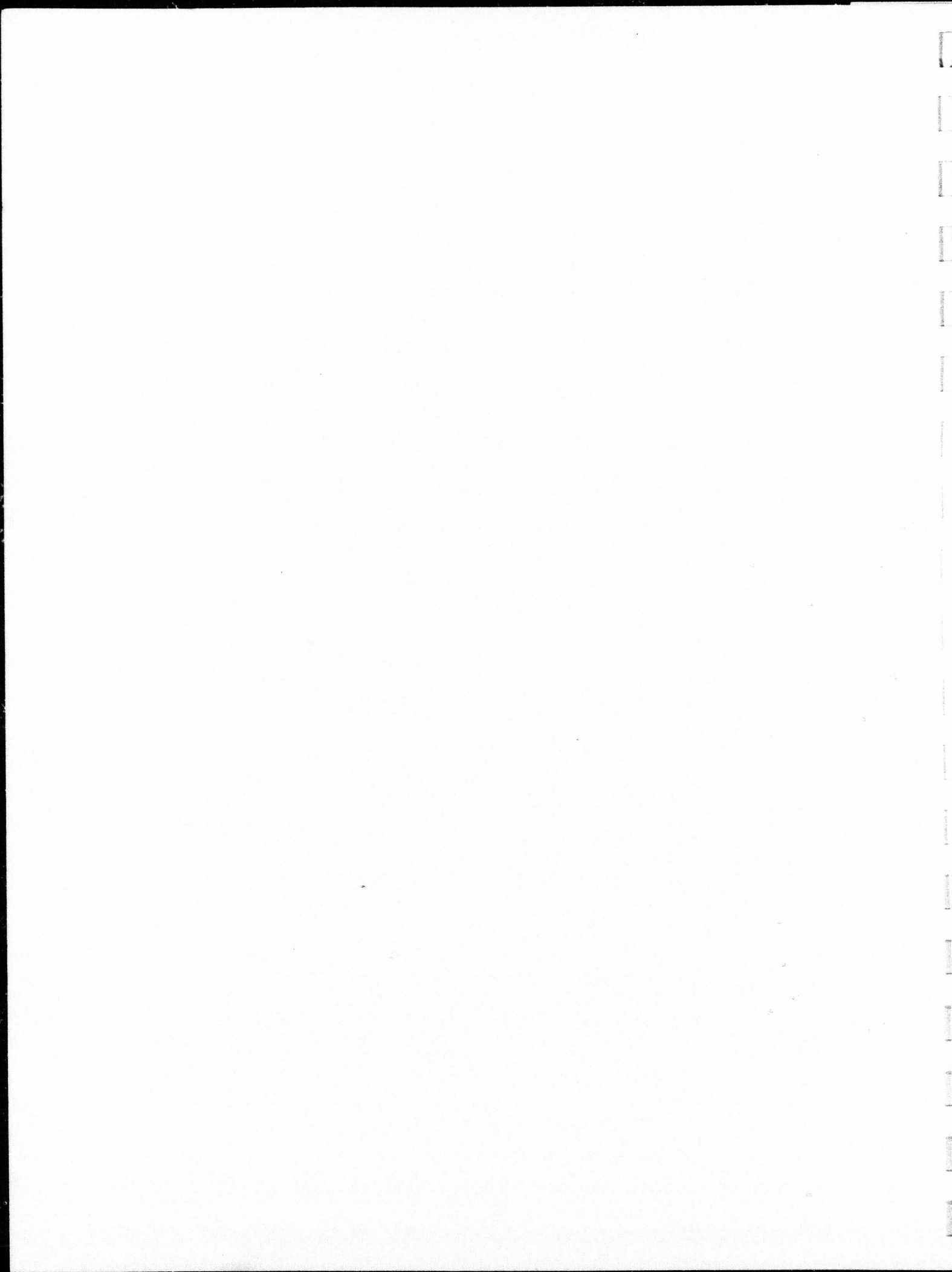

JUNE E. BOOMHOWER
Notary Public, State of New York
Qualified in Albany County
My Commission Expires March 31, 1979

CERTIFICATE OF SERVICE

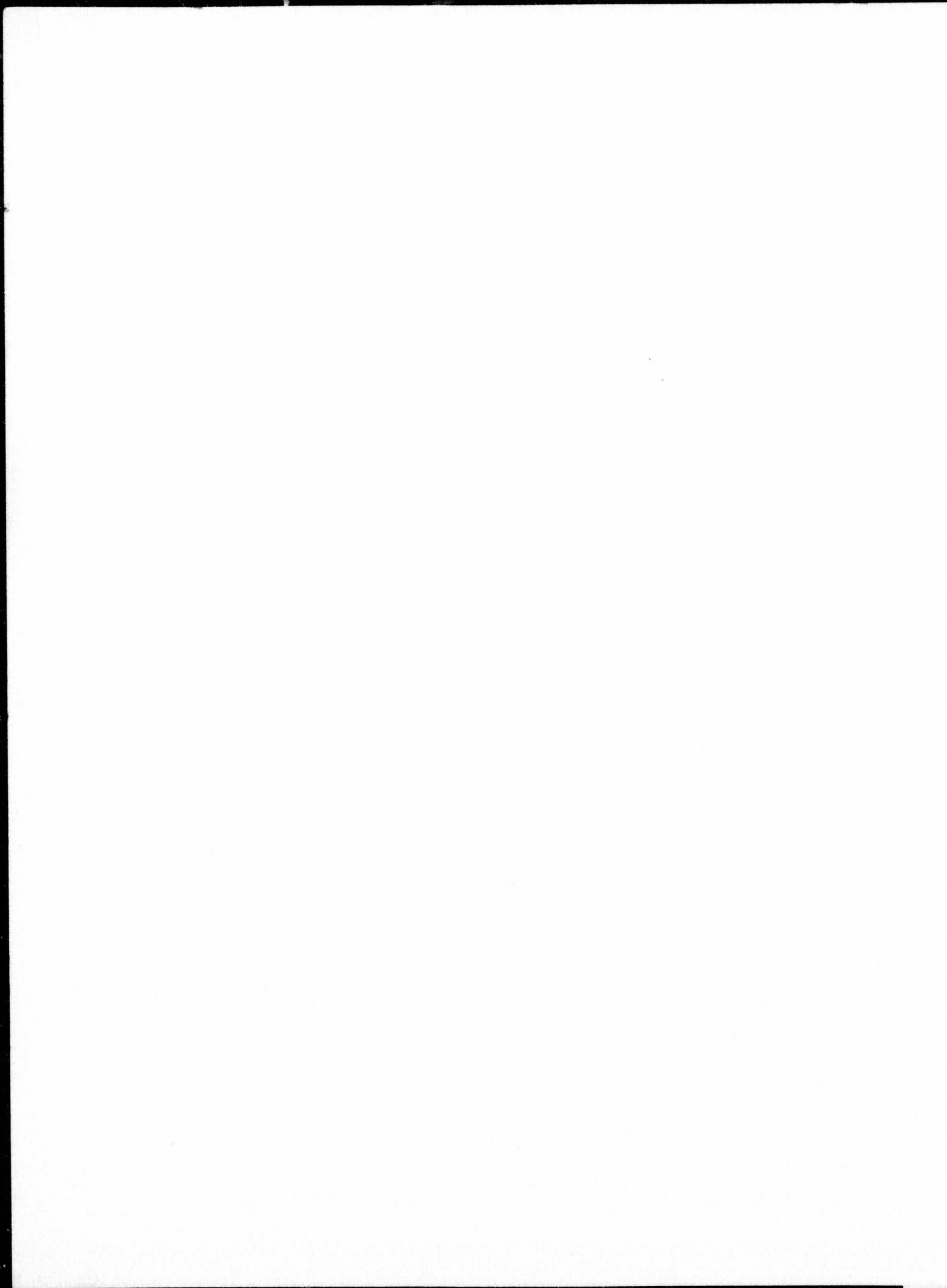
I certify that a true copy of the foregoing has been
served upon all parties of record by first-class mail,
postage prepaid, this ~~15~~¹⁶th day of May, 1977.



FREDERICK GOLDFEDER



DOCUMENT 364



BEFORE THE
INTERSTATE COMMERCE COMMISSION
IN THE MATTER OF
MASCONY TRANSPORT AND FERRY SERVICE, INC.
DOCKET NO. W - 1270

INTERVENOR'S REPLY

Reply by Intervenor, East End Supply Co., Inc., to sworn Statement furnished by applicant purporting to provide plan for operating facilities at Greenport, New York:

Intervenor has its principal place of business at 203 Front Street, Greenport, New York, just west of the Post Office and just east of the Bohack property. Thus, it is surrounded by Applicant's parking site, its landing site and the flow of traffic boarding ferry. It will, in effect, be cut off from its access to Front Street in front of its building for the times when the ferry traffic is moving from the Bohack parking site to the boarding site.

The plan as presented is no plan, but a general statement. There are no specifics that Intervenor can reply to. Despite Applicant's statement as to its approval of sites by the Planning Board of the Village of Greenport, Intervenor has

seen no notice of an application for approval at which time it could reply in detail to Applicant's site plan under the Zoning Law.

At one stage of these proceedings, Applicant's plan for Greenport facilities included placing its employees at Front and First Street to control traffic coming out of Texaco Alley. The present so-called plan still calls for that exit, but this time, no mention is made of employees controlling traffic, which is illegal.

Intervenor's position is that Applicant has submitted no plan for its shore facilities at Greenport, New York and Applicant's case is still deficient.

Respectfully Submitted,
EAST END SUPPLY CO., INC.

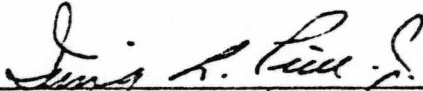
By: Irving L. Price, Jr.
Irving L. Price, Jr.,
Its Attorney

Dated At:

238 Main Street
Greenport, N.Y. 11944
May 17, 1977

CERTIFICATE OF SERVICE

I hereby certify that I have this 17th day of May, 1977 served a copy of the foregoing document upon all known parties of record, by mailing by First Class Mail, postage prepaid, a copy thereof, properly addressed.


Irving L. Price, Jr.

NEW YORK STATE
DEPARTMENT OF TRANSPORTATION
Raymond T. Schuler, Commissioner



1220 Washington Avenue, State Campus, Albany, New York 12232

May 17, 1977

Hon. Robert L. Oswald, Secretary
Interstate Commerce Commission
12th Street and Constitution Avenue, N.W.
Washington, D. C. 20423

Re: Mascony Transport and Ferry Service, Inc. - Initial
Operations
New London to Greenport, L.I., New York

Docket No. W-1270

Dear Mr. Oswald:

Enclosed is an original and eight copies of the reply of intervenor, New York State Department of Transportation to the applicant's verified statements made pursuant to order of the Commission, Division 1, sitting as an Appellate Division which order was dated April 5, 1977 (service date, April 8, 1977).

Kindly acknowledge receipt on the enclosed copy of this letter.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Frederick Goldfeder", followed by a horizontal line.

Frederick Goldfeder
Associate Attorney
Regulatory Service Bureau

cc: To all parties

Enc.

FG:bd

BEFORE THE
INTERSTATE COMMERCE COMMISSION
IN THE MATTER OF
MASCONY TRANSPORT AND FERRY SERVICE, INC.
NO. W - 1270

INTERVENOR'S REPLY

ON BEHALF OF EAST END SUPPLY CO., INC.

Intervenor's Representative

IRVING L. PRICE, JR.
Attorney - at - Law
238 Main Street
Greenport, N.Y. 11944

DUE DATE: May 18, 1977



DOCUMENT 365

[illegible]

Before the
INTERSTATE COMMERCE COMMISSION

Docket No. W-1270

MASCONY TRANSPORT AND FERRY SERVICE, INC.,
INITIAL OPERATIONS - NEW LONDON TO GREENPORT, L.I., NEW YORK

VERIFIED STATEMENT OF INTERVENOR,
SHELTER ISLAND AND GREENPORT FERRY COMPANY, INC.

SHELTER ISLAND AND GREENPORT
FERRY COMPANY, INC.

Robert W. Tasker
Its Attorney
425 Main Street
Greenport, New York 11944

Dated: May 18, 1977

VERIFIED STATEMENT

OF

FRANK R. BECKWITH

My name is Frank R. Beckwith. I reside at Shelter Island, New York and am the Manager of the Shelter Island and Greenport Ferry Company, Inc. (SIGF), an intervenor in this proceeding.

This statement is submitted in reply to the verified statements of Applicant, Mascony Transport and Ferry Service, Inc. pursuant to the order of the Interstate Commerce Commission, division 1, dated April 5, 1977.

The SIGF operates the only vehicle and passenger ferry service between the north fork of eastern Long Island and Shelter Island, New York and has continuously provided such service for more than 75 years. SIGF presently operates three 85 foot ferry vessels. A fourth vessel is presently under construction and will be completed and in service within the next several weeks.

At present SIGF transports more than 250,000 vehicles and 320,000 passengers annually. At peak periods during the summer months, sailings are made at approximately seven minute intervals. Vehicles boarding the vessels either proceed to our staging area at the Long Island Railroad freight yard located south of Wiggins Street via Third, Fourth and Fifth Streets. All vehicles exit the ferry by proceeding north on Third Street (Wiggins Street is a one-way east bound street) to Front Street.

The SIGF docking facilities are located on the east side of Third Street opposite Wiggins Street, within close proximity to the proposed docking site of Mascony at the Mitchell Restaurant site.

I have examined the latest docking, staging and parking plan submitted by Mascony with its statements. It is evident that the major portion of vehicles boarding Mascony's ferries will proceed south on Third Street and then turn left into the "Bohack" staging and/or parking site, proceed north to Front Street, and then proceed east on Front Street to the docking site on the Mitchell property.

It is undisputed that traffic congestion presently exists in the downtown area of the Village of Greenport particularly at the intersection of Third and Front Streets. SIGF has cooperated with the Village of Greenport in an attempt to alleviate these problems. In the last year, SIGF moved its staging area from Wiggins Street to the Long Island Railroad property west of Third Street adjacent to the waterfront. However, if the Mascony ferry service were to be introduced into the Front and Third Street area of Greenport, the additional traffic will aggravate and already critical traffic problem.

At such times as SIGF vehicles are leaving its ferry and Mascony ferry traffic is either loading and/or unloading, traffic on Front Street and Third Street will be at a standstill. Such a traffic jam can create extremely dangerous conditions. SIGF provides the only means of transporting patients from Shelter Island to the Eastern Long Island Hospital in Greenport. It also transports fire fighting equipment to and from Shelter Island in cases of calls for assistance by either the Shelter Island Fire Departments or the fire departments on the north fork. In such circumstances, time is of the essence. A delay of minutes could make a difference of life and death.

The Mascony docking plan, at the Mitchell site also will create severe problems and interfere with and in many cases interrupt SIGF operations. The Mascony docking site is within 250 feet of the SIGF docking facilities. In order for Mascony to dock

or undock, its vessels of necessity will block access to and from the SIGF docking site, causing its ferries to stand by until the Mascony ferry has cleared the area (see Appendix 1 and 2 annexed to Power statement). With SIGF vessels operating at seven minute intervals, it is obvious that delays will ensue, thus causing traffic to back-up and further aggravate the traffic problems in Greenport. Although Mascony asserts that it can land a 320 foot vessel, tie-up, unload up to 100 vehicles, load up to 100 vehicles, undock and clear its dock in ten minutes, such an assertion is preposterous when one takes into consideration all surrounding circumstances such as traffic stoppage on Front and Third Streets, boat traffic in the harbor, and SIGF operations in the area.

It is also apparent that the parking and staging areas to be provided by Mascony are inadequate to handle the traffic contemplated by the Mascony operation. The result is that Mascony ferry traffic will be backed-up on village streets which again will increase traffic congestion on Front and Third Streets.

SIGF submits that the present Mascony plan at Greenport, New York will aggravate existing traffic problems, will endanger the safety of SIGF operations and therefore respectfully requests that the Interstate Commerce Commission deny the application for operating authority.

Respectfully submitted,

Frank R. Beckwith
Frank R. Beckwith

VERIFICATION

STATE OF NEW YORK)

SS.:

COUNTY OF SUFFOLK)

FRANK R. BECKWITH, being duly sworn, deposes and says that deponent is the Manager of the SHELTER ISLAND AND GREERPORT FERRY COMPANY, INC., an intervenor in the within proceeding; that deponent has read the foregoing statement and knows the contents thereof; that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters deponent believes it to be true.

Frank R. Beckwith

Frank R. Beckwith

Sworn to before me this 18th

day of May, 1977.

Robert W. Tasker
Notary Public

ROBERT W. TASKER
NOTARY PUBLIC, State of New York
Suffolk County No. 50-3923725
Term Expires March 30, 1979

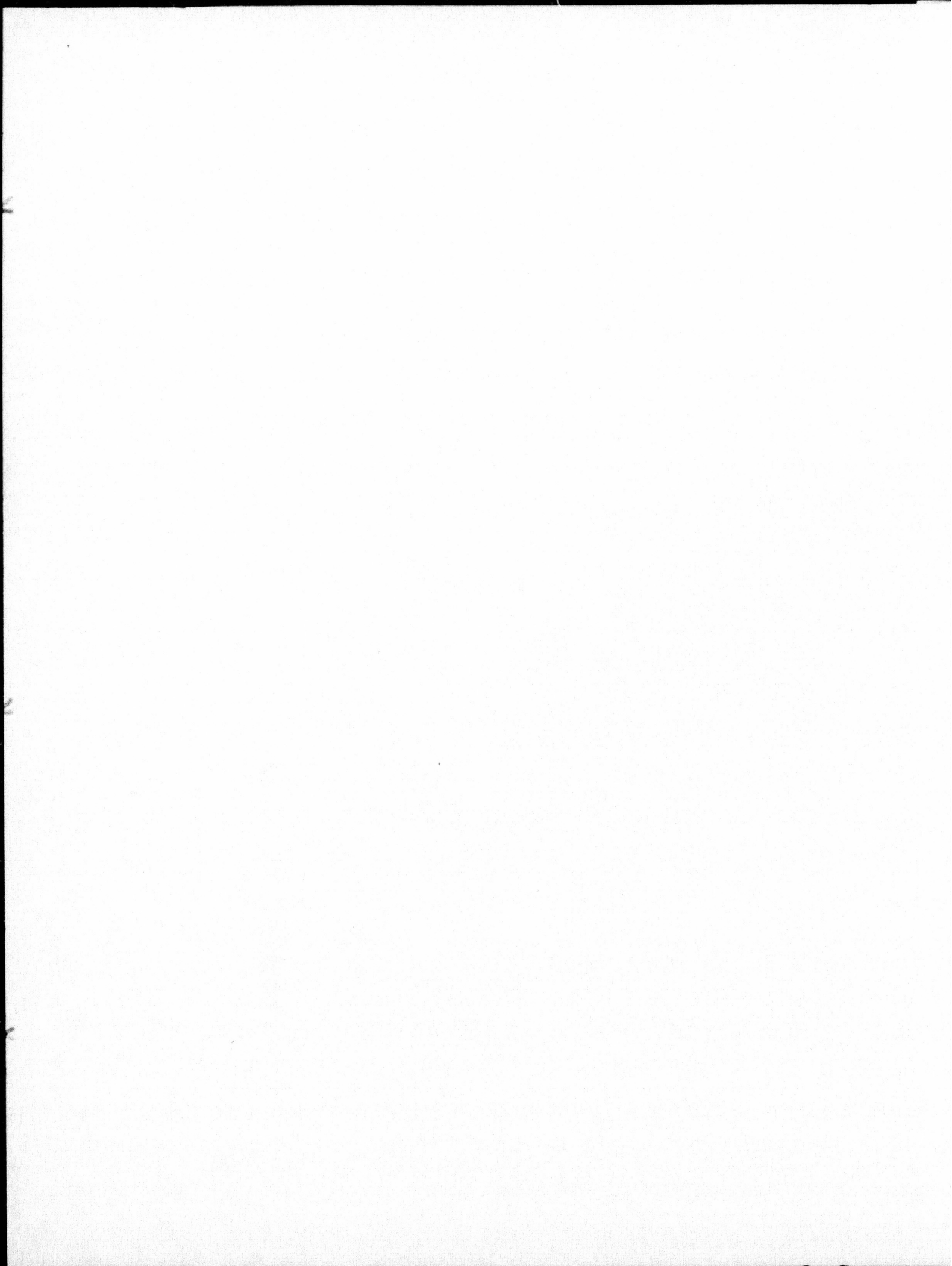
CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served upon all parties of record by first-class mail, postage-prepaid, this 13th day of May, 1977

A handwritten signature in cursive script, appearing to read "Robert W. Tasker", is written over a horizontal line.

Robert W. Tasker

DOCUMENT 366



Before the
INTERSTATE COMMERCE COMMISSION

Docket No. W-1270

MASCONY TRANSPORT AND FERRY SERVICE, INC.,
INITIAL OPERATIONS - NEW LONDON TO GREENPORT, L.I., NEW YORK

VERIFIED STATEMENT OF INTERVENOR,
ASSOCIATION OF BUSINESSMEN OF GREENPORT

ASSOCIATION OF BUSINESSMEN
OF GREENPORT

Robert W. Tasker
Their Attorney
425 Main Street
Greenport, New York 11944

Dated: May 18, 1977

VERIFIED STATEMENT

OF

GEORGE H. ROWSOM

My name is George H. Rowsom. I am associated with the firm of S.T. Preston & Son, Inc., 102 Main Street, Greenport, New York, said corporation being a member of the Association of Businessmen of Greenport, an intervenor in this proceeding.

The within verified statement is in reply to the verified statements of Applicant, Mascony Transport and Ferry Service, Inc. pursuant to the order of the Interstate Commerce Commission, Division 1, dated April 5, 1977.

The Commission order of April 5, 1977 reopened the proceeding solely for the purpose of allowing Applicant to submit additional evidence regarding its docking, staging and loading sites at Greenport, New York and New London, Connecticut, and to permit protestants and intervenors to reply thereto. The within statement is limited to the Applicant's statements with respect to docking, staging and loading sites at Greenport, New York.

As stated in intervenor's petition to intervene in this proceeding, Mascony has, throughout the various stages of this proceeding, changed and revised its docking, staging and loading sites at Greenport.

The original docking site was located on the westerly side of the Mitchell property. When this was shown to be unworkable, the site was shifted to the east. At about the time that the Association petitioned to intervene, Mascony indicated that it was considering docking at the Long Island Railroad site. In its statements recently submitted, it apparently has now moved back to the second Mitchell docking site.

Mascony's staging and loading sites likewise have been changed, altered and in some cases have disappeared during the course of this proceeding. At first, access to the Mitchell docking site was through a fifteen (15) foot existing driveway along the westerly boundary of the Mitchell property. When this proved inadequate, this access was widened to fifty-five (55) feet necessitating the destruction of a large banquet building on the Mitchell property. During the early stages, only the westerly portion of the Mitchell property was to be used for ingress and egress to the docking site. As has been Mascony's custom, this also changed. It then proposed to utilize all of the Mitchell waterfront property. Vehicles would exit from the ferry, proceed easterly along the waterfront, exit through a twenty (20) foot alleyway, cross Front Street and proceed north on First Street. When it was shown that heavy truck traffic over First Street (a residential street) would cause injury to sewer mains, the plan again changed and trucks would proceed west on Front Street and only automobiles would proceed north on First Street.

As to staging and parking areas, here again the plan constantly changed. Reference is here made to figure 4 at page 87 of the Commission's decision (353 ICC 60). In the early stages of the proceeding, parcels A, B, C and the westerly portion of parcel E were to be used for parking and staging sites. Then parcel D was added; then questionable leases appeared for the utilization of the easterly portion of parcel E. Thereafter, the Long Island Railroad property (Parcel F) appeared. Now apparently the railroad property has been abandoned as a docking and staging site, and parcel D, the only parcel to provide adequate parking, has mysteriously disappeared. At this point, the Commission's attention should be directed to the statement of George R. Power that Appendix 1 annexed to his statement conforms to Figure 4 at page 87 of

the Commission's decision. This is not the case, since Figure 4 includes Parcel D whereas Appendix 1 excludes Parcel D. Mascony, in its latest "plan" has apparently now removed the largest parking and staging area.

The central business area of the Village of Greenport is essentially embraced within an area bounded on the north by Center Street; on the east by Main Street; on the south by Greenport Harbor; and on the west by Third Street. Within this small area, there are numerous retail stores and service shops. A theatre is located on Front Street within 250 feet of the proposed Mascony Ferry access; the United States Post Office is located on Front Street adjacent to the Mascony Ferry entrance, with no available off-street parking facilities. The only two supermarkets are within one block of the Mascony Ferry entrance, one located on Front Street and the other on First Street, one block north of Front Street. The principal business streets servicing the business area are Front and Main Streets, each 33 feet in width from curb to curb, each providing two-way traffic with on-street metered parking on both sides.

A 1974 traffic study prepared for the Village of Greenport by the Suffolk County Traffic Safety Department indicated that the streets of the Village of Greenport, particularly Front Street, were then overloaded and operating at capacity with an average weekend daily volume in excess of 10,000 vehicles. Such study concluded that the proposed Mascony ferry service can only be expected to further overburden the street system and that the existing street and traffic controls are totally inadequate to absorb the increased loads generated by the Mascony ferry service.

The 1974 traffic study, among other things, recommended the following:

1. All access to and from the ferry slip should be via Third Street rather than Front Street.

2. All storage and parking areas for vehicles loading on the ferry should be located on the west side of Third Street.

3. Storage for 250 vehicles should be initially provided.

The docking, staging and loading plan presently proposed by Mascony meets none of the above requirements. In fact, the only parking site located west of Third Street has been eliminated from Mascony's latest plan.

The Suffolk County Traffic Safety Department in December, 1976 prepared a second traffic study report for the Village of Greenport. I have read and am familiar with this report and am informed that the Planning Board of the Village of Greenport, an intervenor herein will submit such study with its reply statements. Such report indicates that the street system in the downtown area of Greenport has now reached the saturation level (700 to 750 vehicles per hour on Front Street during peak periods) and that no significant increases in traffic volumes can be accommodated without changes in the roadway or traffic control system.

The 1976 report proposes several alternative solutions to alleviate the downtown traffic problems, including one-way streets; elimination of on-street parking; improved signal controls and signs, and the extension of Adams Street. It is obvious that some of these recommendations can not be carried out if the Mascony ferry service, with the docking, staging and parking plan it proposes, becomes a reality (i.e. one-way eastbound traffic on Front Street, and one-way southbound traffic on First Street). It is thus apparent that if the Mascony ferry service, as proposed by it, becomes a reality, the available options to the Village for the solution of its downtown traffic problems will be severely circumscribed. In effect, any solution to the traffic problem will be dictated by the wishes and requirements of the Mascony

commercial venture, rather than by the needs and desires of the residents and business establishments presently in the Village. As was stated by Commissioner Murphy in his dissenting opinion (page 76) " . . . the citizens of Greenport are entitled, within limits, to chart their own destinies without the intrusion of outside forces which have little or no interest in the ultimate goals of those citizens. "

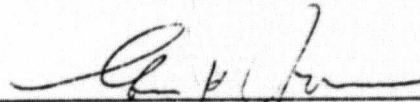
It can not be seriously questioned that the Mascony ferry service with its accessory parking and staging facilities will introduce into the Village of Greenport an activity totally different from and hostile to the present business and social environment of the Village. Such a disruptive force becomes more devastating when consideration is given to the Commission's decision herein. In effect, if the present decision stands, Mascony has been granted permission to conduct a three (3) year experiment at the expense of the Village of Greenport, its residents and business community. Public officials of the Village, as well as its residents and businessmen are asked to sit idly by for three (3) years and await the results of the Mascony "experiment". In the interim, all future municipal and business plans must be held in abeyance, for no one will know for three years whether the future of the Village of Greenport and particularly its downtown business area, will be determined by the officials and residents of the Village of Greenport or dictated by the Mascony Transport and Ferry Service, Inc. of New Bedford, Massachusetts.

Mascony has now had four years to come forth with a feasible plan. It has proposed numerous docking, staging and parking plans, each new one as unworkable as the former. Its unfitness and irresponsibility is amply demonstrated by the fact that after four years, it has failed to prepare or submit a plan to the Planning Board of the Village of Greenport for its consideration and approval. Such failure also

demonstrates applicant's utter lack of consideration or concern for the public officials of the Village of Greenport.

It is submitted that four years is more than adequate for Mascony to formulate a workable plan that will not be destructive of the business community of Greenport. Having failed after four years, the residents and businessmen of Greenport should not be asked to bear the burden of an "experiment" for three more years.

Respectfully submitted,



George H. Rowsom

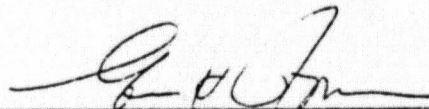
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STATE OF NEW YORK)

ss.:

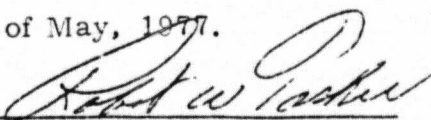
COUNTY OF SUFFOLK)

GEORGE H. ROWSOM, being duly sworn, deposes and says that deponent is an officer and director of S. T. PRESTON & SON, INC., an intervenor in the within proceeding; that deponent has read the foregoing statement and knows the contents thereof; that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters deponent believes it to be true.



George H. Rowsom

Sworn to before me this 18th
day of May, 1977.

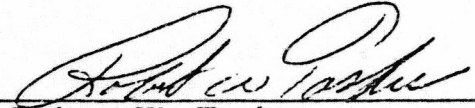


Notary Public

ROBERT A. JACOB
NOTARY PUBLIC, State of New York
Suffolk County No. 52 322725
Term Expires March 30, 1979

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served upon all parties of record by first-class mail, postage-prepaid, this 18th day of May, 1977.

A handwritten signature in cursive script, appearing to read "Robert W. Tasker", is written over a horizontal line.

Robert W. Tasker

DOCUMENT 372

BEFORE THE
INTERSTATE COMMERCE COMMISSION
IN THE MATTER OF
MASCONY TRANSPORT AND FERRY SERVICE, INC.

- INITIAL OPERATIONS -
NEW LONDON TO GREENPORT, L.I., N.Y.

DOCKET NO. W-1270

APPLICANT'S REBUTTAL VERIFIED STATEMENT

Applicant's Representative:

Frank J. Weiner
Wesley S. Chused
15 Court Square
Boston, Massachusetts 02108

Attorneys for Applicant

REBUTTAL VERIFIED STATEMENT

OF

GEORGE R. POWER

My name is George R. Power. I am President of Mascony Transport & Ferry Service, Inc., hereafter referred to as applicant.

I submitted a verified statement on behalf of the applicant pursuant to the Commission's order. I have read the verified statements submitted by various parties in opposition.

Of particular significance is the statement submitted by Thomas DiMaggio, a member of the City Council, City of New London, Conn. In his statement, Mr. DiMaggio states that the New London Redevelopment Agency must first secure approval from the City Council of New London prior to selling land to any particular person or party.

Attached to the verified statement of John P. Wronowski, Cross-Sound Ferry Services, Inc., as Appendix 2 thereto, was a memorandum addressed to the Redevelopment Agency of the City of New London by the City Manager of the City of New London. That memorandum dated May 11, 1977 pertained to certain votes of the City Council held on May 9, 1977.

Attached hereto as Appendix "A", is a copy of the reply of the New London City Planning Board addressed to the City Manager, the party responsible for the receipt of any and all correspondence to be handled by the City Council.

I call to the attention of the Interstate Commerce Commission that the New London City Planning Board reminded the City Council of New London that on June 14, 1973, the New London City Planning Board had recommended approval of the Special Use Permit which would allow the New London, Conn. area and property in question to be used for a ferry service as requested by applicant.

That this proceeding has involved local politics is further evidenced by a meeting held at the New London City Council on May 16, 1977 at which time the New London City Council entertained a motion to refuse to sell urban renewal land to applicant and to intervene in applicant's proposal now pending before the Commission.

Attached hereto as Appendix "B", is a news article appearing in the Norwich Bulletin, Wednesday, May 18, 1977. The news article refers to the fact that in 1973, the New London Connecticut City Council "welcomed applicant with open arms" and "gave it encouragement" in its proposal for its ferry service. The New London City Council squashed the motion to refuse to sell urban renewal land to applicant and in essence, is allowing the Interstate Commerce Commission to decide whether or not the proposed ferry service is required.

At page 8 of Mr. Wronowski's statement, he states that he inquired of Mr. Nelson of the New London Redevelopment Agency concerning the FHA funds available to construct a fail-safe signal device. I personally inquired of the availability of funds and was informed by William Kinley,

Engineer, New London Connecticut Redevelopment Agency that on May 7, 1976, the New London Connecticut Redevelopment Agency was informed by the Connecticut Department of Transportation that a request had been made to the Federal Highway Administrator to release to the State of Connecticut, funds equivalent to 80% of the cost of installing the fail-safe signal device. On January 26, 1977, the New London Connecticut Redevelopment Agency was informed by the Connecticut Department of Transportation that a request has been made to the Federal Highway Administrator for possible 100% financing and funding of the subject proposed fail-safe signal device.

At page 8 of his statement, Mr. Wronowski claims that the landing angle proposed by applicant would interfere with the use of certain property held under an alleged lease by Nelseco Navigation Company, a firm owned by Mr. Wronowski's father. Applicant submits that the angle proposed by applicant will in no way interfere with the use of the property allegedly leased to Mr. Wronowski's father's firm. The angle of the vessel would be well within the riparian line as reflected in Appendix "A" to my initial verified statement.

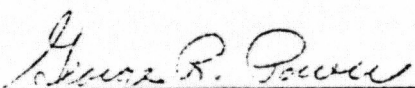
The verified statement submitted by the Village of Greenport claims that there are fuel tanks containing 12,000 gallons of gasoline and 4,000 gallons of diesel fuel at the Greenport, L.I. property. The Village of Greenport is attempting to purposely mislead the Commission with respect to the location of certain fuel tanks. The fuel tanks inserted in Appendix "A" to Mr. Richmond's statement are erroneously placed. Such tanks are located in a more easterly

direction and are beyond the travel lanes of vehicles.

The locations of the fuel tanks were taken into consideration by the New York State Department of Environmental Conservation when it granted applicant its Permit No. TW-15277-0053. and its subsequent extension of May 12, 1977 as reflected in Appendix "C" attached hereto.

Neither is there any merit to the allegation that applicant's proposed ferry service would interfere with the Shelter Island and Greenport Ferry Company, Inc. In my initial verified statement, I attached thereto as Appendix "5", a copy of the permit issued to applicant. Said permit authorizes the installation of multi-pile dolphins at Greenport Harbor. That application was opposed by Shelter Island and Greenport Ferry Company, Inc. and it is obvious, through the issuance of the permit, that the Department of the Army, Corps of Engineers, found that applicant's proposed use of Greenport Harbor would in no way interfere with the operations and navigation of other vessels in Greenport Harbor including those of Shelter Island and Greenport Ferry Company, Inc.

Respectfully submitted,



George R. Power, President

VERIFICATION

COUNTY OF: Suffolk
STATE OF: Massachusetts

George R. Power, being duly sworn, deposes and says that he has read the foregoing statement, knows the contents thereof, and that the same are true as stated.

George R Power
George R. Power

Subscribed and sworn to before me a notary public this 31st
day of May 1977.

Frank J. Lewis

My Commission Expires December 8, 1983

(SEAL)



NEW LONDON CITY PLANNING BOARD / CDAP AGENCY

MUNICIPAL BUILDING • NEW LONDON, CONNECTICUT 06320 • (201) 443-2851 EXT. 314

WALDO K. CLARKE, President
THOMAS E. MOORE, Advisor
NANCY L. JACKSON, Secretary

APPENDIX "A"

May 13, 1977

Mr. C. Francis Driscoll
City Manager
Municipal Building
New London, Conn. 06320

Subject: Transportation Center and Possible Second Ferry
Service (Your Memo May 11, 1977)

Dear Mr. Driscoll:

The Planning Board, at its regular meeting on May 12, 1977, took the following action regarding the above subject matter, as set forth in your memorandum of May 11, 1977 (see attached).

1. The Planning Board voted unanimously, 3 to 0, to go on record favoring the building of the transportation center around the Railroad Station area.
2. The Planning Board voted unanimously, 3 to 0, that the Re-development Agency be notified that they cannot sell land without Council approval. Further, the sale, lease or acquisition of any public property must also be referred by the Council to the Planning Board for review and recommendation.
3. The Planning Board voted 2 to 1 to remind the Council that on June 14, 1973, the Planning Board recommended approval of the Special Use Permit regarding the Sparyard Street site as the location for a second ferry service. This Special Use Permit was subsequently approved by the Council. The Planning Board reaffirms its original action of June 14, 1973.

Mr. Clarke requested that the recommendation indicate that he opposed the motion due to the anticipated traffic situation on Bank Street and the many changes in conditions that have occurred since 1973 when the Planning Board took its original action.

Those members in favor of the motion felt that the City should encourage more commercial investment in New London and that

C. Francis Driscoll, City Manager

May 13, 1977

2.

competition is healthy for the growth of the City.

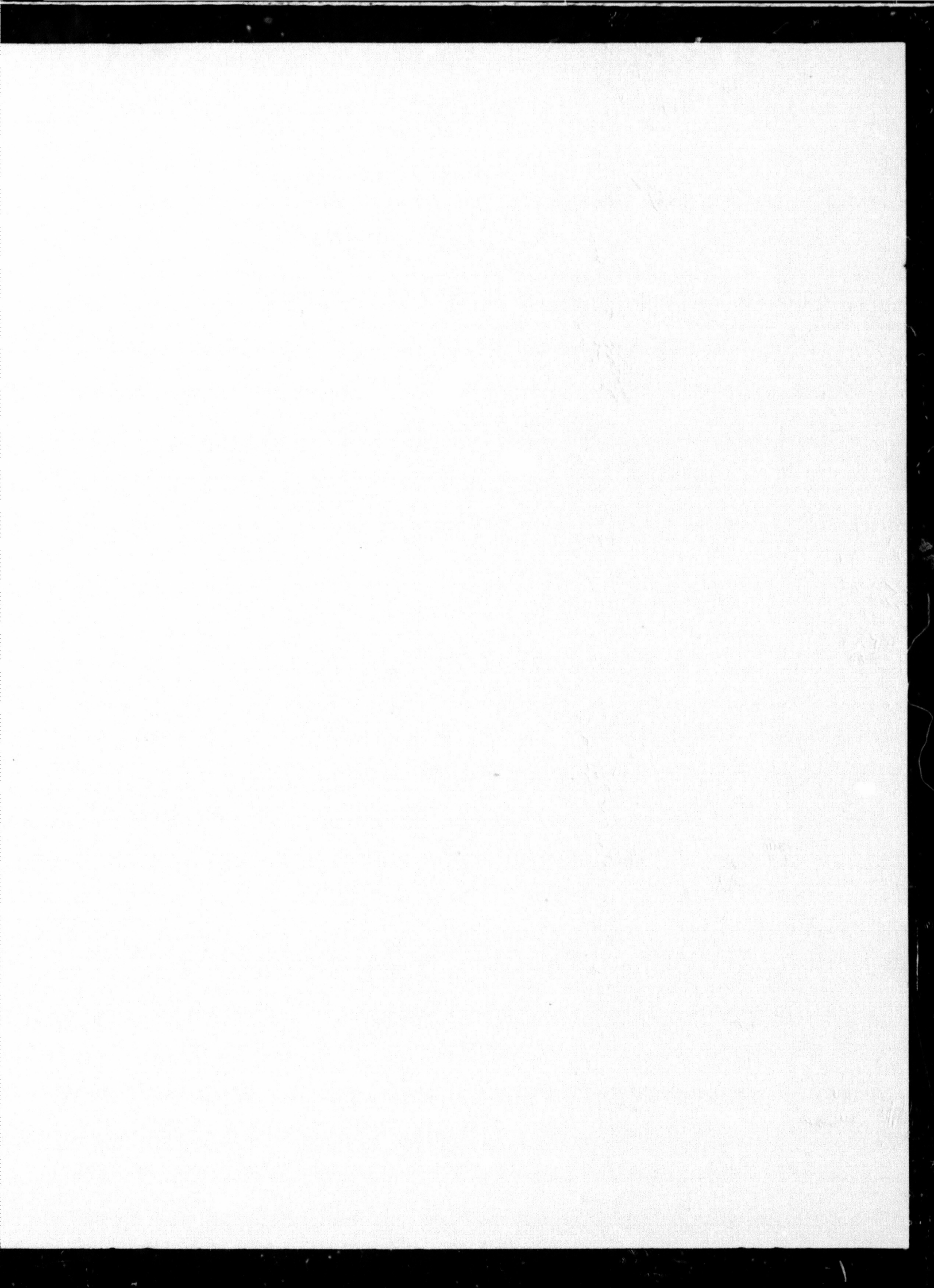
Very truly yours,

Nancy L. Jackson

Nancy L. Jackson, Secretary
City Planning Board/CDAP Agency

attchs.

CC: City Council
Attorney Francis T. Londregan
Attorney William W. Miner
Attorney Daniel D. Schwartz



Colchester Griswold Lebanon Montville New London

Council Upholds 'Free Enterprise'; Squashes Ferry Motion

NEW LONDON — Attempts by two members of the City Council to prevent a second ferry service to Long Island in operating out of the city failed on the majority of the council voted against any intervention before the Interstate Commerce Commission (ICC).
Councilor Ruby Turner Morris introduced a motion for the council to use to sell urban renewal land on Bank Street to Mascony Ferry and Transport Company for a ferry terminal and staging area. Incorporated Mrs. Morris' motion was a proposal to inform the ICC of the city's intent before the federal agency's deadline for receiving information related to an appeal of a license granted to Mascony last fall.
Expressing concern that the council could not be interfering with appeals

involving free enterprise, the council defeated Mrs. Morris' motion, 5-2. Voting with Mrs. Morris was Councilor Thomas F. DiMaggio. Both have spearheaded in recent months efforts to prevent Mascony from establishing a ferry service which would be in competition with the existing service provided by Cross Sound Ferry Service. Cross Sound was acquired several years ago from New London Freight Lines by John P. Wronowski and Brent Lynch. Wronowski's family owns Thames Shipyard and Repair Co. in New London and Lynch is related to the former ferry operators.
The current ICC proceedings are the result of an appeal by Cross Sound, which claims evidence previously presented to the commission is inaccurate. Complaints of poor service by

the existing ferry line are no longer a factor in determining the need for another ferry, according to Cross Sound. The firm claims it has greatly improved the quality of service since taking over the line.
Mascony, a firm based in New Bedford, Mass., has been trying since 1973 to establish a ferry service in New London and its owners expect final ICC approval by next month. Mascony has been named preferred developer by the Redevelopment Agency for property on Bank Street, which the agency is acquiring from DeNola Brothers Furniture Company, and holds an option to buy waterfront property off Sparyard Street from Kellems Realty Co.
The proposal for the council to intervene in the ICC proceedings was sharply criticized Monday night by two

prominent New London attorneys involved in the Mascony negotiations.
Francis T. Londregan, who has represented Mascony in previous clashes with the council over the proposed ferry service, urged the council to "leave it to private enterprise to determine whether each or the other would be affected" by a second ferry line.
"We're only asking now that we be treated as every other developer has been treated since the Redevelopment Agency began operating in 1960 — that Mascony's position as preferred developer be acknowledged by this council until such time as a full set of plans go to the council from the agency.
"Any other action prior to this time by this council by statements to the ICC would undermine negotiations with

your Redevelopment Agency," Londregan said.
Whether the city can support two ferry services is a question for the public to decide, Londregan noted.
Former Mayor Daniel Schwartz, a member of the City Council when Mascony began its first attempts to locate in New London, told the council "we welcomed them with open arms and we gave them all encouragement." He reminded Mrs. Morris she was once one of the biggest boosters of a second ferry service. Schwartz is representing Kellems Realty in its negotiations with Mascony.
"I feel it would be immoral and illegal to appear before the ICC as a council. To pull the rug out from under them at this late date would be immoral and to appear before the ICC during

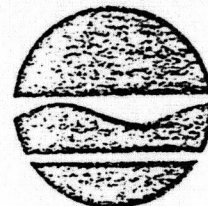
appeal proceedings would be illegal because the council has nothing before it on which to act," Schwartz explained.
"Let's let free competition and the open market determine (the outcome). Let's not protect a 'sacred cow,'" Schwartz said.
A group of 10 Mascony stockholders headed by Foster Herman of Sou Dartmouth, Mass., also appeared before the council Monday to support the firm's right to locate in the city.
Opponents of the proposed ferry claim the Bank Street site is too removed from the Union Station area where a transportation center is being developed and argue the ferry operation will create traffic problems on Bank Street.
The council has final approval of sale of land by the Redevelopment Agency.

Council Vetoes Halcyon Bid To Extend Pact for Developing Downtown

NEW LONDON — A bid to extend a local oversight committee appointed by Halcyon to direct the project for three months' additional

APPENDIX "B"

New York State Department of Environmental Conservation
50 Wolf Road, Albany, New York 12233



Peter A. A. Berle,
Commissioner

May 12, 1977

APPENDIX "C"

Mascony Transport & Ferry Service, Inc
206 Masonic Building
New Befford, Massachusetts 02740

RE: Permit No. TW-15277-0053
Extension of Permit

Gentlemen:

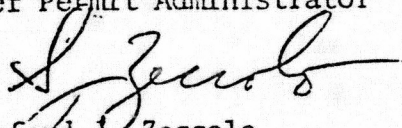
In accordance with your recent letter dated April 15, 1977, the expiration date of the above permit is hereby extended to December 31, 1977.

This letter is an amendment to the original permit, and as such, should be attached thereto. All other conditions shall remain as originally written in the permit.

If the structure or work authorized is not completed on or before the new expiration date, or upon the completion of the inventory of tidal wetlands for this area pursuant to Article 25 of the Environmental Conservation Law, whichever occurs first, this permit, if not specifically extended, shall cease and be null and void.

Very truly yours,

Louis M. Condra, Jr.
Chief Permit Administrator

by: 
Stanford J. Zeccolo
Alternate Chief Permit Administrator

LMC:SJZ/scs

cc: D. Larkin



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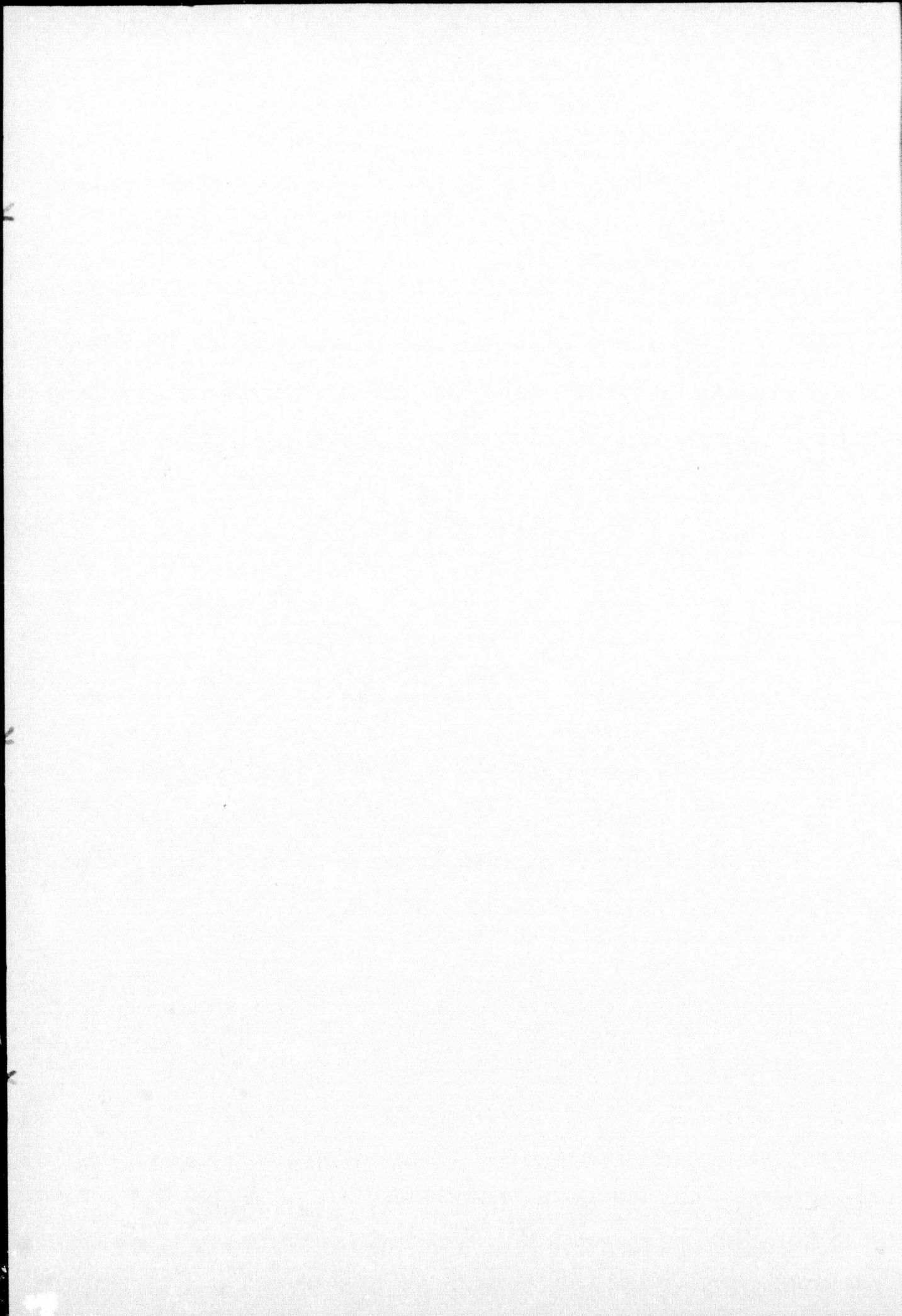
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DOCUMENT 374



Before the
INTERSTATE COMMERCE COMMISSION

Docket No. W-1270
MASCONY TRANSPORT AND FERRY SERVICES, INC.

- INITIAL OPERATIONS -
NEW LONDON TO GREENPORT, L.I., NEW YORK

PETITION FOR LEAVE TO INTERVENE
AND TO FILE VERIFIED STATEMENT

Peter R. Reilly, Counsel
National Railroad Passenger
Corporation
955 L'Enfant Plaza North, S.W.
Washington, D. C. 20024

Dated: June 7, 1977

Before the
INTERSTATE COMMERCE COMMISSION

Docket No. W-1270

MASCONY TRANSPORT AND FERRY SERVICES, INC.

- INITIAL OPERATIONS -

NEW LONDON TO GREENPORT, L.I., NEW YORK

PETITION FOR LEAVE TO INTERVENE
AND TO FILE VERIFIED STATEMENT

COMES NOW the National Railroad Passenger Corporation, 955 L'Enfant Plaza North, S.W., Washington, D.C. 20024 ("Amtrak"), and petitions for leave to intervene herein and to submit the attached verified statement of Mr. Bruce L. Gordon, Amtrak's Director of State Affairs. The reason that this petition and the verified statement are filed late in this proceeding is that Amtrak has but very recently learned of the proceeding and of the impact that approval of the application will have on Amtrak's operations. As is reflected in Mr. Gordon's verified statement, the purpose of the intervention herein is to protest particulars of the application which would entail expanded use of a grade crossing over which Amtrak operates its Northeast Corridor trains between New York and Boston.

While applicant's pending proposal would appear to have little, if any, competitive impact upon Amtrak, we are concerned with the probable adverse operational and safety impact upon our operations, personnel and passengers. Concisely, applicant proposes to expand a minimally used rail/highway grade crossing to accommodate some 66,385 vehicles and 300,000 passengers annually. The crossing is located on our Northeast Corridor main line which Amtrak acquired on April 1, 1976. Amtrak's present and continued transit of this crossing approximates 7,765 trains and 774,500 passengers annually. Also, the topography and physical characteristics of the crossing are far from ideal. Such a quantum leap in the use of such a crossing by vehicles and their passengers increases its hazard potential infinitely and is of serious concern to Amtrak.

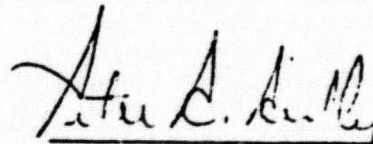
Therefore, Amtrak respectfully requests that the Commission grant this petition for leave to intervene, that it consider the verified statement of Mr. Bruce L. Gordon and that it deny the pending application as presently proposed.

Respectfully submitted,

Peter R. Reilly
Peter R. Reilly, Counsel
National Railroad Passenger
Corporation
955 L'Enfant Plaza North, S. W.
Washington, D.C. 20024
(202) 484-2561

Certificate of Service

I hereby certify that I have served a copy of the foregoing document and the accompanying verified statement upon all parties of record, by first class mail, postage prepaid, this 7th day of June, 1977.


Peter R. Reilly

Before the
INTERSTATE COMMERCE COMMISSION

Docket No. W-1270

MASCONY TRANSPORT AND FERRY SERVICES, INC.

- INITIAL OPERATIONS -

NEW LONDON TO GREENPORT, L.I., NEW YORK

VERIFIED STATEMENT OF
BRUCE L. GORDON

My name is Bruce L. Gordon. Since January 1, 1977, I have been Director of State Affairs for the National Railroad Passenger Corporation (Amtrak). Prior to that date, I was employed as Director of Amtrak's Grade-Crossing Program (from December 20, 1975 to December 31, 1976). This is a dynamic, extensive, on-going safety program which focuses on all aspects of the inherently dangerous circumstances which exist at rail/highway grade-crossings. My new duties encompass, among other things, all of the responsibilities of my previous position.

In reviewing the Commission's file involving the instant proceeding, I became very much concerned at the realization that approval of the requested authority, as presently proposed by the applicant, would necessarily

increase the potential and probability of future rail/highway grade crossing accidents. I was particularly sensitive to the fact that the specific grade-crossing which applicant proposes to use in conjunction with its ferry boat operations, that at Sparyard Street in New London, Connecticut, is located on Amtrak's high-speed, high-density, Northeast Corridor main line, which is presently being rehabilitated for even higher speed train operations. Contrary to applicant's proposal to increase the use of a rail/highway crossing on the Northeast Corridor, the Department of Transportation/Amtrak Improvement Project calls for the closing of, or at least the grade separation of, as many railroad crossings as is possible so as to improve the Corridor's safety profile and lessen interference with rail passenger services.

I was further concerned when, upon investigation into Sparyard Street, I found that an accident between one of our trains and an automobile had taken place at that crossing in April, 1977 resulting in injury to the sole occupant of the vehicle, the driver. I also determined that the Sparyard Street crossing lacks automatic traffic controlling signals and devices. Too, the crossing surface itself is in deplorable physical

condition and is woefully inadequate to efficiently provide for relatively safe and expeditious vehicular and/or pedestrian transit. Moreover, a driver's visibility is obstructed due to the geometric configuration and angle of the crossing, the track curvature in both directions and the buildings located on the Northeast and Southeast quadrants of the crossing.

More importantly, however, is the fact that the applicant's projected volume of people and motor vehicles to be loaded and unloaded at the Sparyard Street crossing, when added to present and projected rail passengers and freight, will produce such catastrophic potential for accidents that approval of the requested authority could result in a major national tragedy involving multiple fatalities and injuries.

Applicant estimates that it will book 66,385 vehicles and carry 300,000 passengers annually. This approximates 182 vehicles and 822 people per day. Amtrak presently operates some 7,765 trains per year via New London, carrying some 774,500 passengers annually. This averages 21 trains and 2,122 people per day. Amtrak has no immediate plans to decrease these services. With such a concentration of people, trains, and motor vehicles in constant modal conflict, the potential and

probability for increased accidents/incidents becomes significantly hazardous. Approval of the pending proposal would result in an almost infinite increase in the hazard potential at Sparyard Street. Applicant further projects that approximately 5% of the vehicles will involve trucks and tractor-trailers. Such vehicles only compound this undesirable mix inasmuch as they require manual manipulation of complex gearing mechanisms that take an inordinate amount of time to clear a crossing. The potential for accidents/incidents is further heightened by the seasonal nature of applicant's proposed operations and by possible peak period expansions of its service.

Some of the serious questions and problems that we, at Amtrak, believe require the Commission's close review and analysis in assessing the merits of applicant's proposal involve:

1. How will motor vehicles clear the crossing?
 - a. Driven by owners?
 - b. Driven by employees of applicant? or
 - c. Transported by auto carrier?
2. How will passengers clear the crossing?
 - a. By motorbus or other passenger transportation that may require manual manipulation of complex gearing mechanisms?

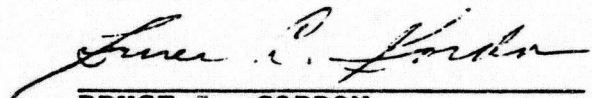
- b. By walking in small or large organized groups, escorted by trained crossing guards employed by applicant? or
- c. In an unorganized, leisurely fashion?
- 3. Are the handicapped identified, grouped, and given special transportation consideration for clearing the crossing?
- 4. Would applicant indemnify and hold the railroads harmless from liability for accidents/incidents that may result from this additional traffic?
- 5. In the loading aspect of this operation, what happens when the pier is full, with vehicles spilling over the crossing and beyond, and a train is approaching?

In conclusion, for the reasons above, Amtrak is very much opposed to the applicant's proposed use of the Sparyard Street crossing and would respectfully request that the Commission not grant its approval to such a deadly plan. In the alternative, at the very least, a grade separation structure should be required.

VERIFICATION

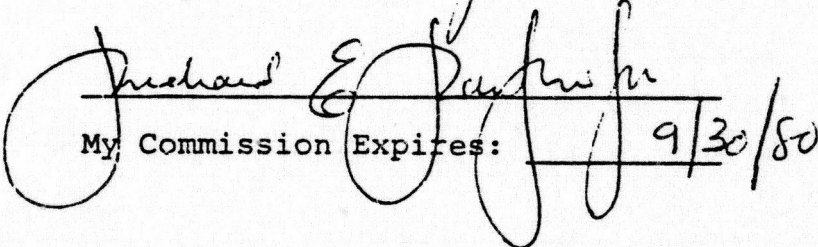
DISTRICT OF COLUMBIA: ss

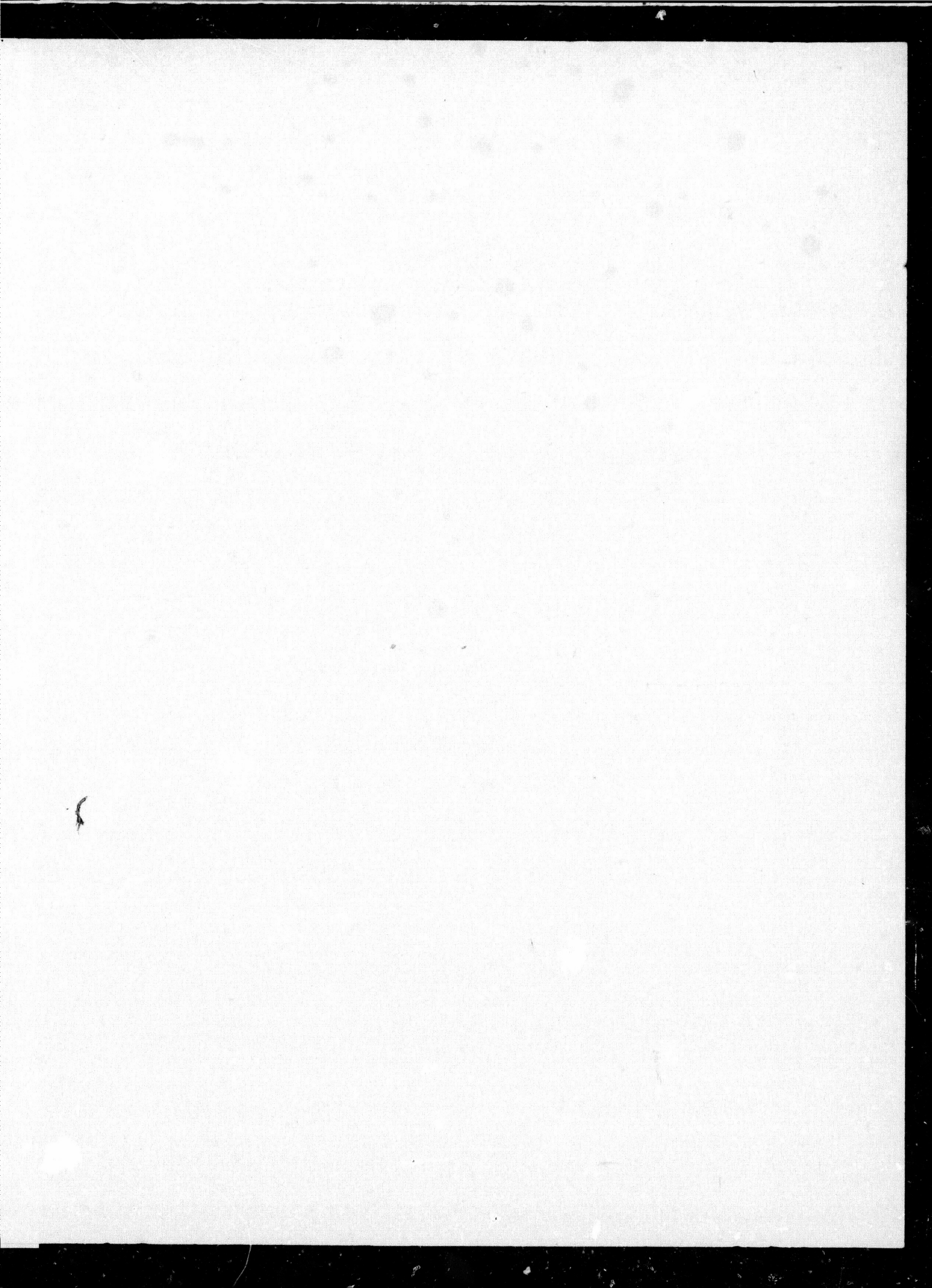
I, BRUCE L. GORDON, being duly sworn, depose
and say that I have read the foregoing Affidavit, know
the contents thereof, and that the same are true as stated.

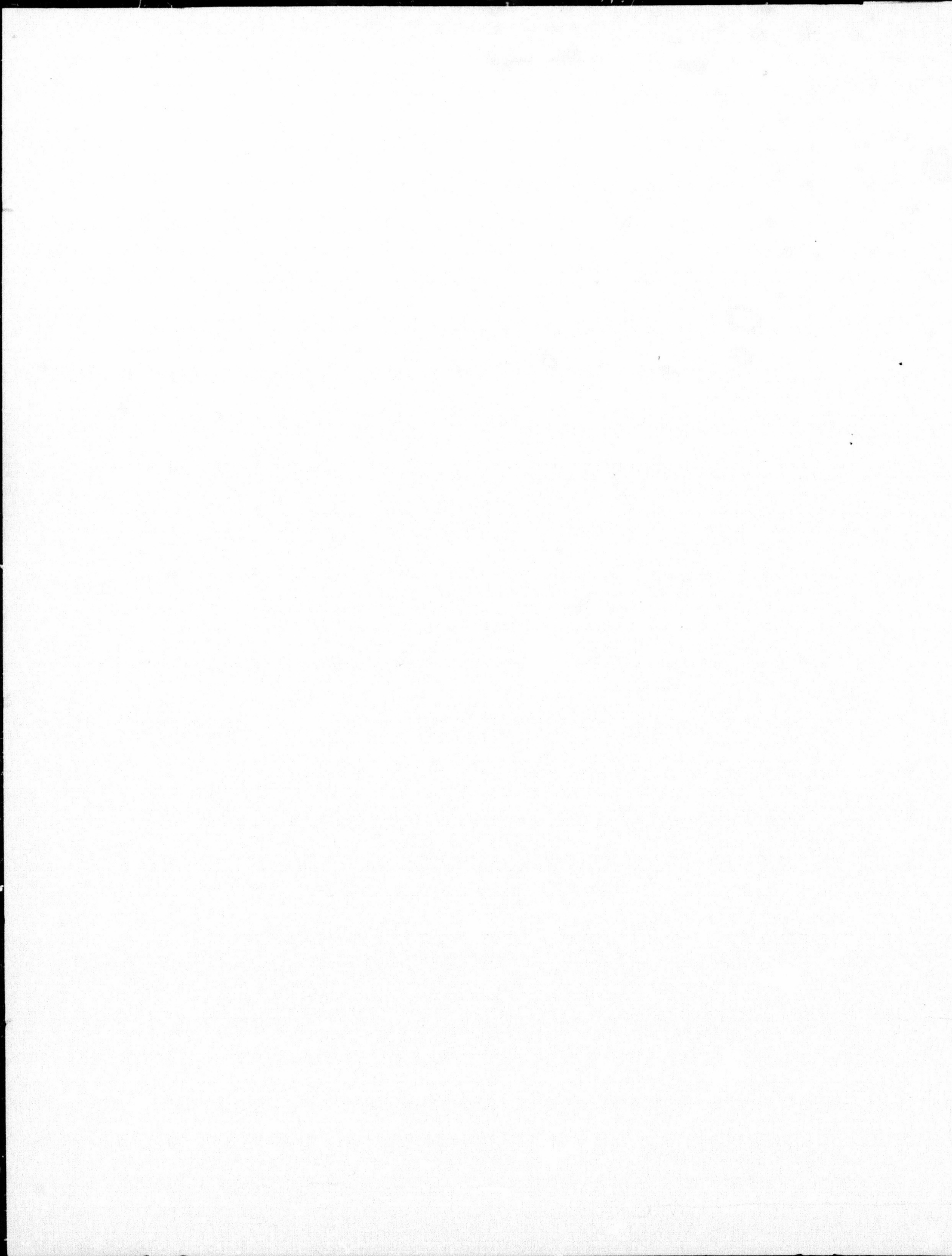


BRUCE L. GORDON

Sworn to and subscribed before
me this 4th day of June, 1977.


My Commission Expires: 9/30/80





DOCUMENT 376

BEFORE THE INTERSTATE COMMERCE COMMISSION
IN THE MATTER OF
MASCONY TRANSPORT AND FERRY SERVICE, INC.

DOCKET NO. W-1270

MOTION TO STRIKE OR IN ALTERNATIVE, REPLY TO
PETITION TO INTERVENE AND VERFIED STATEMENTS
SUBMITTED BY AMTRAK

Applicant's Representatives

Frank J. Weiner
Wesley S. Chused
Attorneys at Law
15 Court Sqare
Boston, MA 02108

BEFORE THE INTERSTATE COMMERCE COMMISSION
IN THE MATTER OF
MASCONY TRANSPORT AND FERRY SERVICE, INC.

DOCKET NO. W-1270

MOTION TO STRIKE OR IN ALTERNATIVE, REPLY TO
PETITION TO INTERVENE AND VERIFIED STATEMENTS
SUBMITTED BY AMTRAK

I

Now comes Mascony Transport and Ferry Service, Inc. hereafter referred to as applicant, and files this motion to strike the petition for leave to intervene and verified statement submitted by Amtrak, or in alternative, a reply thereto.

II

This proceeding has been pending before the Commission for more than four (4) years. Amtrak had earlier attempted to file a verified statement and become a party to this proceeding. It requested permission from the Commission to do so on May 18, 1977.

By letter dated May 23, 1977, the Commission denied the request of Amtrak to file a verified statement in the subject proceeding.

Now, Amtrak seeks to do that which it was denied by filing

its petition for leave to intervene and submitting a verified statement.

In view of the fact that Amtrak's prior request to intervene and file a verified statement was denied and that Amtrak has not set forth any good cause or reason to intervene at this late stage of the proceeding, applicant moves that the petition for leave to intervene and tendered verified statement be rejected.

III

It is further apparent that the attempt of Amtrak to intervene at this late stage of the proceeding is an additional attempt on the part of those opposing applicant's ferry service to stymie and hinder a final decision in this proceeding.

Amtrak was aware of the fact that the application has been pending for more than four (4) years. It was aware of the fact that a rail grade crossing was involved and was further aware that fail-safe signal devices would have to be installed prior to applicant's proposal becoming a reality.

Amtrak is and was further aware of the fact that the City of New London has received approval from the Department of Transportation to install fail-safe signal devices as the rails of Amtrak are so located that if there were no grade crossings, a substantial portion of the property of the City of New London would not be accessible and would hinder the City of New London.

Amtrak, in its verified statement raises ridiculous questions and issues concerning the proposal.

Applicant is well aware that there is a grade crossing at

the proposed site and that appropriate safety requirements will have to be met. Applicant, in conjunction with the New London Redevelopment Authority intends to insure that such fail-safe signal devices will be installed and that adequate personnel will be present at all times in connection with the boarding and leaving of the ferry vessel at the proposed site.

The Commission, in its prior order in 331 M.C.C. 60, 71, recognized that improvements would have to be made and consequently granted a 3-year term certificate.

Dated At:

15 Court Square
Boston, MA 02108
June 10, 1977

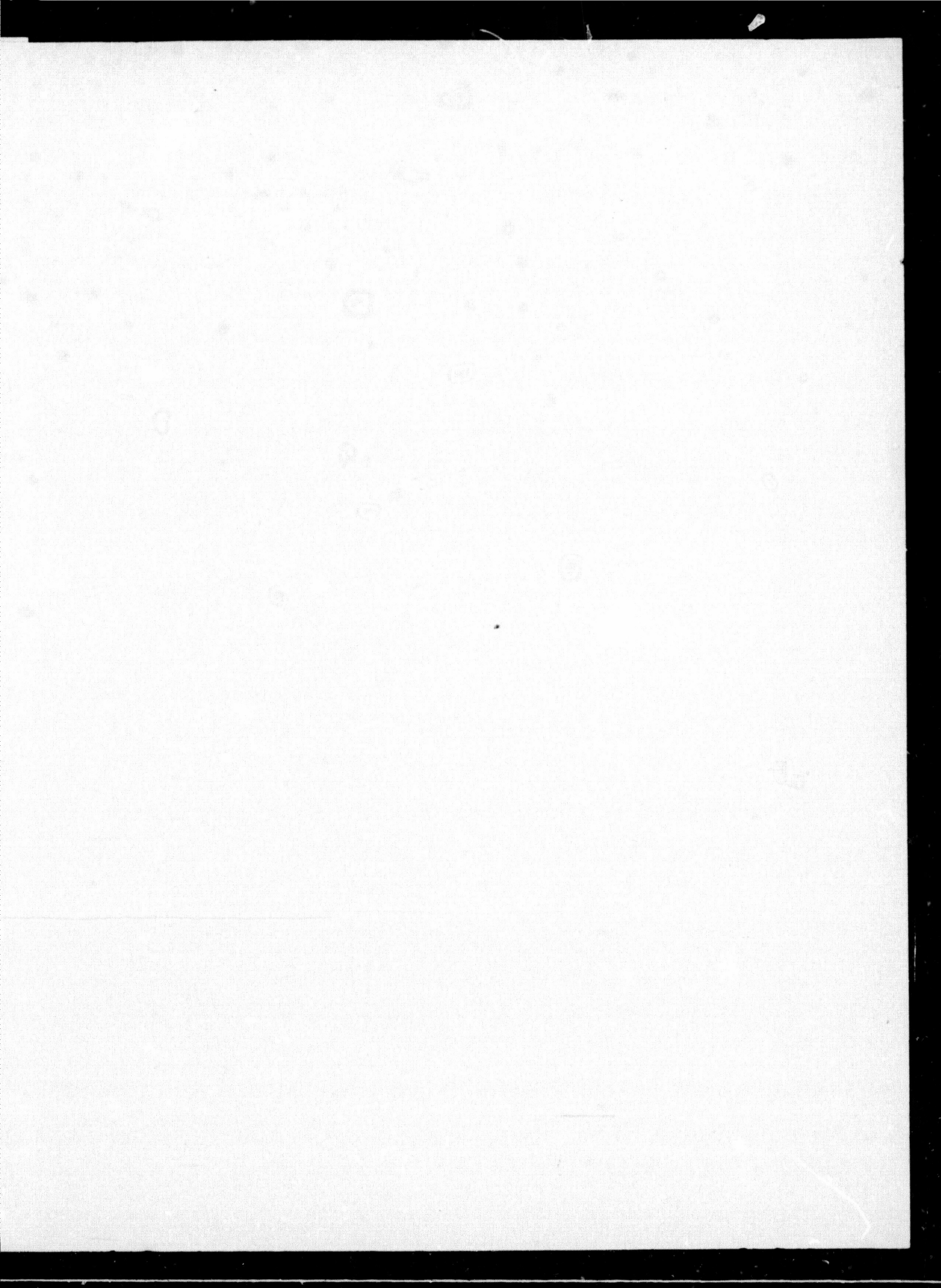
Respectfully submitted

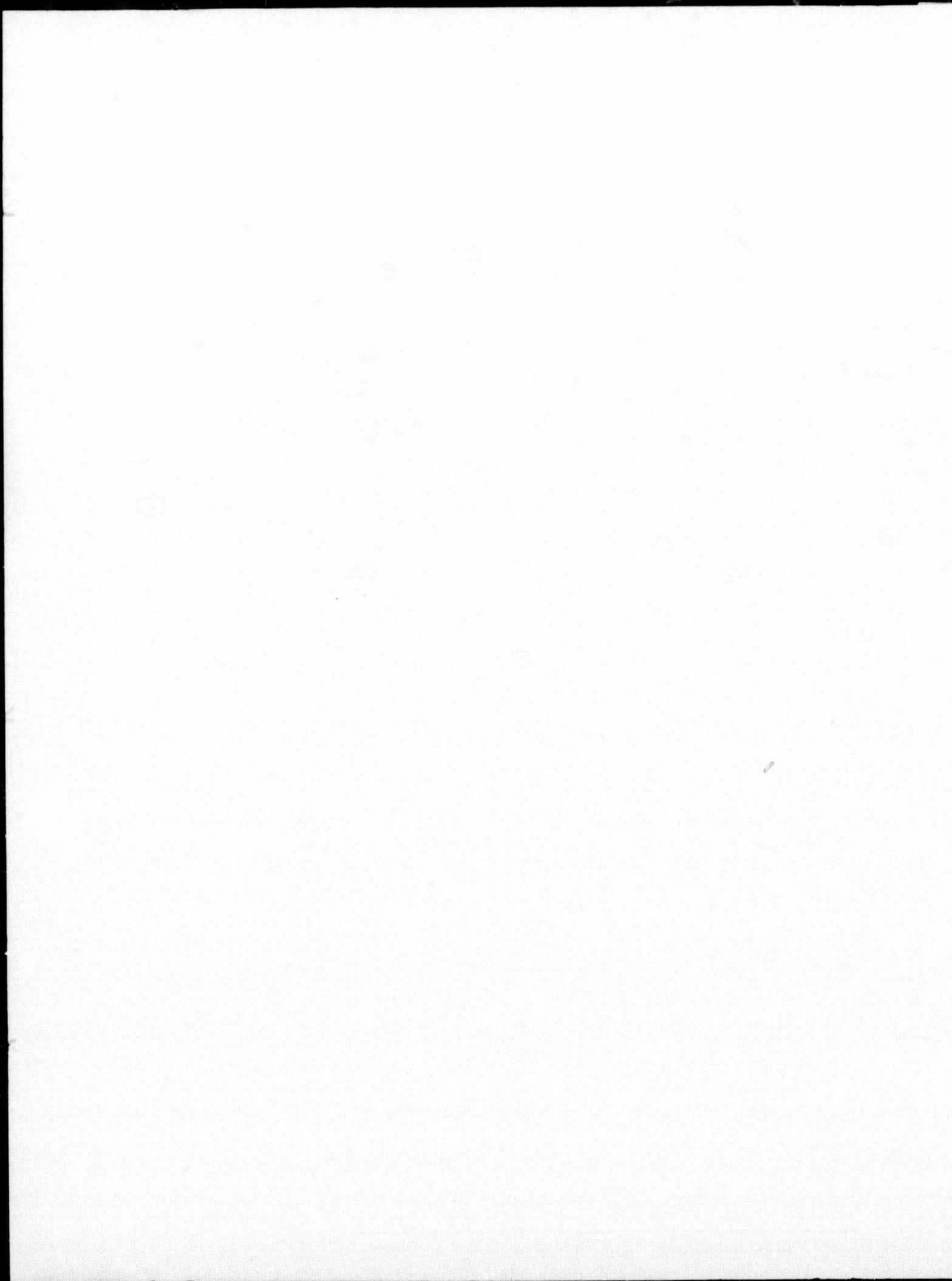
Frank J. Weiner
Wesley S. Chused
Attorneys for applicant

CERTIFICATE OF SERVICE

I hereby certify that I have this 10th day of June, 1977, served a copy of the foregoing document upon all parties of record in this proceeding, by mailing, by first-class mail, postage prepaid, a copy thereof, properly addressed to each.

Frank J. Weiner







June 16, 1977

Michael Erenberg, Esq.
Assistant Deputy Director
Section of Operating Rights
Room 5316
Interstate Commerce Commission
12th & Constitution Ave., N.W.
Washington, D.C. 20423

Re: Mascony Transport and Ferry Service, Inc.
Docket No. W-1270

Dear Mr. Erenberg:

Enclosed for the Commission's consideration are the original and three copies of Amtrak's opposition to applicant's motion to strike or in the alternative, reply to petition to intervene and verified statements submitted by Amtrak in the above-captioned proceeding.

By copy of this letter and its enclosure, I am hereby serving all parties of record.

An extra copy of this cover letter is enclosed, and it is requested that a copy be returned to the undersigned to acknowledge receipt of this filing.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Peter R. Reilly".
Peter R. Reilly
Counsel

PRR:mmm

Enclosure

cc: All parties of record
via first class mail

Before the
INTERSTATE COMMERCE COMMISSION

Docket No. W-1270

MASCONY TRANSPORT AND FERRY SERVICES, INC.

- INITIAL OPERATIONS -

NEW LONDON TO GREENPORT, L.I., NEW YORK

OPPOSITION TO APPLICANT'S MOTION TO STRIKE OR IN
THE ALTERNATIVE, REPLY TO PETITION TO INTERVENE
AND VERIFIED STATEMENTS SUBMITTED BY AMTRAK

Peter R. Reilly, Counsel
National Railroad Passenger
Corporation
955 L'Enfant Plaza North, S.W.
Washington, D. C. 20024

Dated: June 16, 1977

Before the
INTERSTATE COMMERCE COMMISSION

Docket No. W-1270

MASCONY TRANSPORT AND FERRY SERVICES, INC.

- INITIAL OPERATIONS -

NEW LONDON TO GREENPORT, L.I., NEW YORK

OPPOSITION TO APPLICANT'S MOTION TO STRIKE OR IN
THE ALTERNATIVE, REPLY TO PETITION TO INTERVENE
AND VERIFIED STATEMENTS SUBMITTED BY AMTRAK

While applicant's subject motion contains no additional substantive information which it has not heretofore presented in this proceeding, and would thus normally not merit an opposition, it does contain certain mischaracterizations to which Amtrak feels it must reply.

In paragraph II of its motion, applicant states that the Commission had previously denied, in May, 1977, an effort by Amtrak to intervene and file a verified statement herein and therefore should deny Amtrak's instant petition. In fact, Amtrak's May 18, 1977 letter to the Commission was not a petition to intervene and file a verified statement. Rather, it was a request for an extension of time within which to reply to applicant's April, 1977 verified statement.

Our May 18 letter very clearly states, "Amtrak has not heretofore been a party to this proceeding and we wish to evaluate applicant's statement and the file in this matter to determine whether we should endeavor to participate. As we have not had sufficient time to make such a determination, we hereby request an extension of time to and including June 1, 1977 within which to reply to applicant's statement." By letter dated May 23, 1977, the Commission denied Amtrak's request for an extension of time, presumably because we were not a party to this proceeding. The Commission did not deny a petition to intervene and file a verified statement for Amtrak had not so petitioned. In the interim, Amtrak has evaluated applicant's April, 1977 verified statement and the file in this matter and has concluded that the seriousness of the situation necessitates our participation. Ergo, our instant petition.

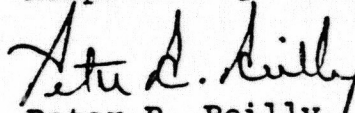
In paragraphs II and III of its subject motion, applicant implies that Amtrak is four years late in filing its instant petition. While it is true that the application has been pending more than four years, Amtrak, as indicated in our May 18 letter, only became aware of its existence during that month. It must be recognized that Amtrak assumed ownership of the subject rail line only on April 1, 1976, long after the application had been filed. Too, it must be recognized that applicant's instant proposal to use the Sparyard Street

crossing was first put forth in its April, 1977 verified statement. Amtrak could not have expressed its opposition prior to that time. In light of these facts, it is clear that Amtrak's instant petition was timely filed.

The Sparyard Street proposal generated Amtrak's concern for the safety of persons and property. This is Amtrak's sole concern and its efforts herein are in no way "an additional attempt on the part of those opposing applicant's ferry service to stymie and hinder a final decision in this proceeding." Amtrak did not ask that the application be denied or that the crossing be closed. We asked only that the applicant's proposed use of the Sparyard Street crossing, absent a grade separation, be denied.

Therefore, Amtrak respectfully requests that the Commission deny the applicant's motion to strike or in the alternative, reply to petition to intervene and verified statements submitted by Amtrak and grant Amtrak's petition for leave to intervene, that it consider the verified statement of Mr. Bruce L. Gordon and that it deny the pending application as presently proposed.

Respectfully submitted,

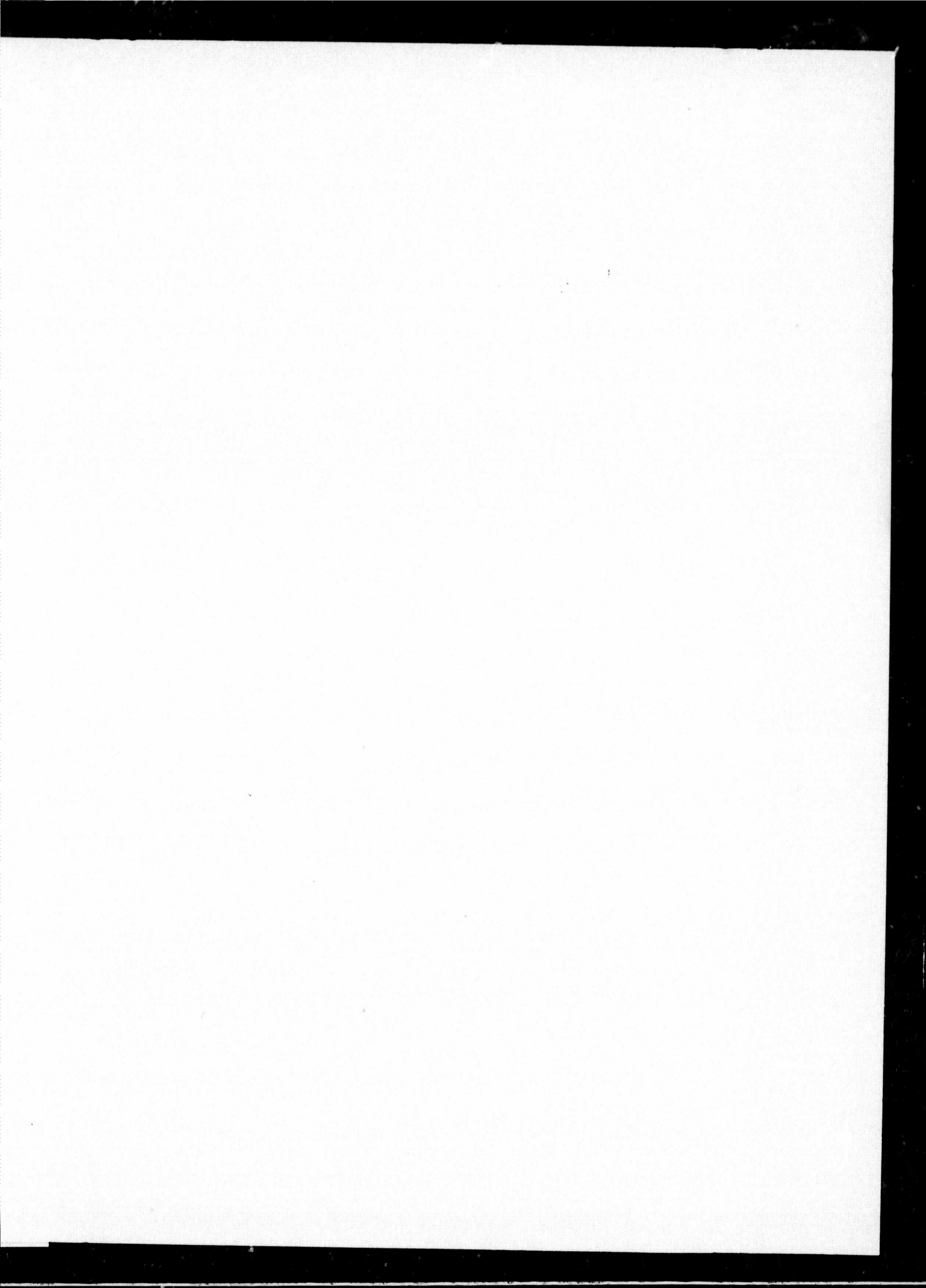


Peter R. Reilly, Counsel
National Railroad Passenger
Corporation
955 L'Enfant Plaza North, S.W.
Washington, D.C. 20024
(202) 484-2561

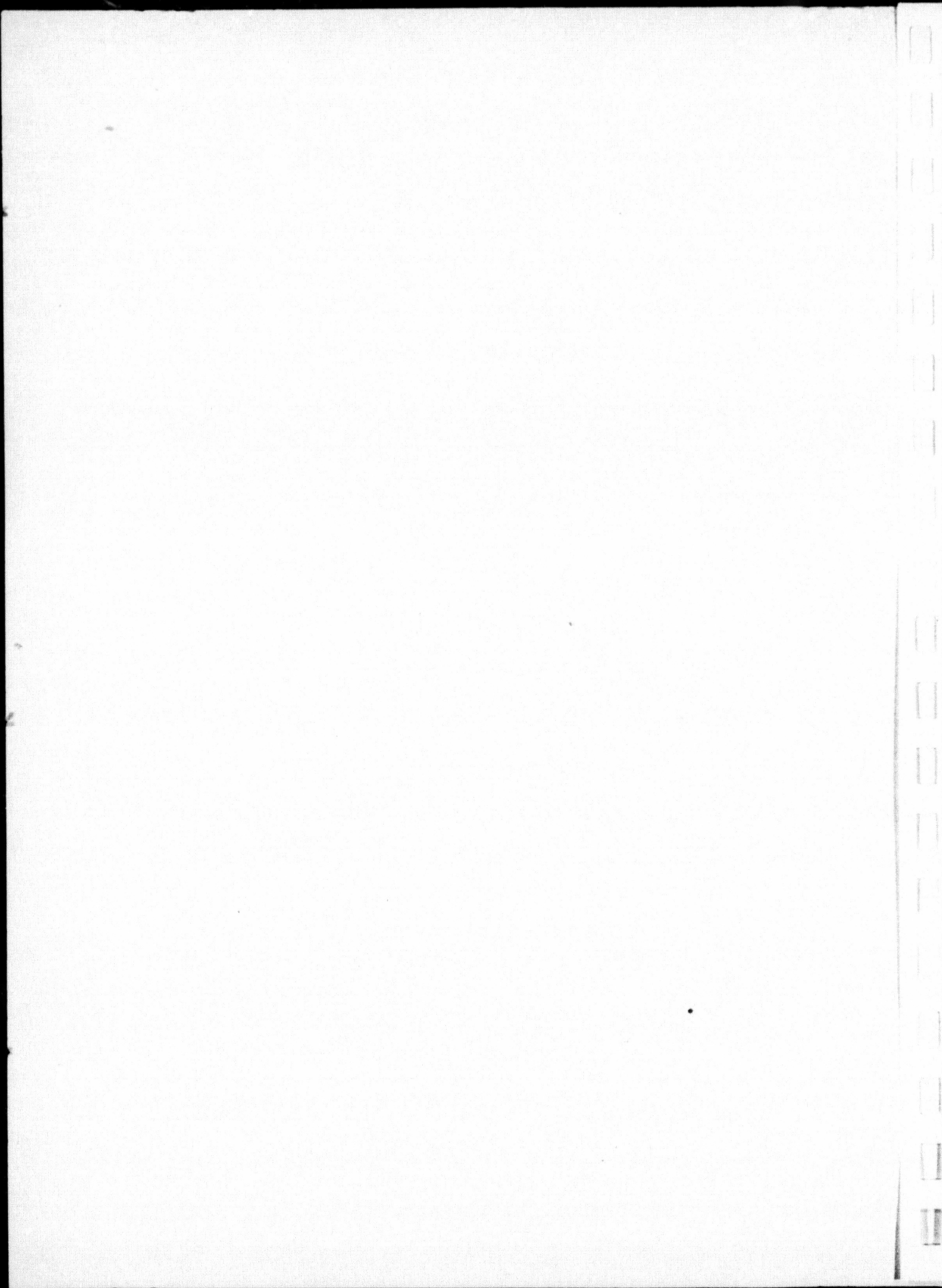
Certificate of Service

I hereby certify that I have served a copy of the foregoing document upon all parties of record, by first class mail, postage prepaid, this 16th day of June, 1977.

Peter R. Reilly
Peter R. Reilly



DOCUMENT 378



SERVICE DATE

ORDER ON FURTHER CONSIDERATION

JUN 16 1977

At a Session of the INTERSTATE COMMERCE COMMISSION, Division 1,
Acting as an Appellate Division, held at its office in
Washington, D.C., on the 14th day of June, 1977.

No. W-1270

MASCONY TRANSPORT AND FERRY SERVICE, INC., INITIAL OPERATIONS -
NEW LONDON TO GREENPORT, L.I., NEW YORK
(New Bedford, Mass.)

It appearing, That by application filed May 29, 1973, Mascony Transport and Ferry Service, Inc., seeks authority to operate a ferry service between the ports of New London, Conn., and Greenport, Long Island, N.Y.;

It further appearing, That the application was orally heard by an Administrative Law Judge who recommended that primarily for environmental and safety reasons the application be denied; that subsequently an environmental impact statement was prepared; and that by a report and order entered November 3, 1976, in Mascony Transport & Ferry Serv., Inc., Init. Ops. 353 I.C.C. 60, it was found that the application should be granted, but that since many problems remain before applicant would actually be in a position to begin operating, only a 3-year term certificate should be granted initially;

It further appearing, That petitions for reconsideration of that decision were filed by several protestants and parties who had previously intervened in opposition to the application; that several new petitions for leave to intervene were filed; and that by an order entered April 5, 1977, Appellate Division 1 granted the petitions for intervention and reopened the proceeding solely for the limited purpose of allowing applicant to submit additional evidence in the form of verified statements regarding docking, staging, and loading sites at Greenport, N.Y., and New London, Conn., and allowing protestants and interveners to reply to such matters;

It further appearing, That on April 26, 1977, applicant filed verified statements pursuant to the April 5, 1977, order; and that verified statements in reply were filed by (1) Harry J. Mitchell and Pauline Mitchell, interveners, (2) Cross-Sound Ferry Services, Inc., protestant, (3) Village of Greenport, intervener, (4) New York State Department of Transportation, intervener, (5) East End Supply Co., Inc., intervener, (6) Shelter Island and Greenport Ferry Company, Inc., intervener, and (7) Association of Businessmen of Greenport, intervener;

It further appearing, That on June 2, 1977, applicant tendered a verified statement in rebuttal for filing; that the order of April 5, 1977, which reopened this proceeding for a limited purpose, does not provide for the filing of such a verified statement; and that the tendered statement should therefore be rejected;

It further appearing, That by a petition for leave to intervene by National Railroad Passenger Corporation (Amtrak), filed June 7, 1977, embracing a verified statement tendered for filing, petitioner seeks to intervene in opposition in this proceeding and have its tendered verified statement admitted into evidence to show its concern over safety considerations relating to applicant's proposed railroad grade crossing at the Bank and Sparyard Street site in New London; that the material it seeks to present has been substantially covered in the environmental impact statement included as an appendix to the prior report; that no good or sufficient cause appears for again reopening this proceeding at this late date; and that the petition should be denied and

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the tendered statement should be rejected; and good cause appearing therefor:

It is ordered, That the verified statement in rebuttal tendered for filing by applicant, be, and it is hereby, rejected; that the petition for leave to intervene filed by National Railroad Passenger Corporation (Amtrak), be, and it is hereby denied, and that the verified statement tendered for filing by Amtrak be, and it is hereby, rejected.

It further appearing, That the evidence with respect to the Greenport sites shows that Mascony still plans to use essentially the same docking, staging, and loading facilities as were discussed in the environmental impact statement included as an appendix to the prior report; that applicant still owns parcels A and B (see figure 4 at page 87 of the prior report); that, as was noted by the Village of Greenport in its petition for reconsideration, applicant conveyed Parcel C to five individuals subsequent to the time the record had been developed in this case; that applicant's verified statements filed pursuant to the April 5 reopening order show that the five grantees of Parcel C are stockholders in Mascony; that verified statements from each of those five shareholders have now been filed showing that they supplied needed cash to applicant in consideration for the conveyance, are acting in the capacity of "caretakers" until applicant can "redeem" Parcel C, and they have agreed to allow applicant to use that property until such time as it is reconveyed to applicant; that applicant's claimed right to the use of parcel E pursuant to a lease (which the environmental impact statement previously noted was being challenged) is being litigated in a pending court action brought by interveners Harry J. Mitchell and Pauline Mitchell (a motion by the Mitchell's for a preliminary injunction and a cross-motion by Mascony for summary judgment were each recently denied in the court proceeding); and that on March 2, 1977, applicant received a permit from the Department of the Army Corps of Engineers authorizing the installation of multi-pile dolphins between two existing piers in Greenport Harbor to form a vessel slip and to protect existing structures;

It further appearing, That the evidence with respect to the New London sites shows that originally applicant proposed to dock, stage, and load at the so-called DeNoia property (the old lumber pier); that its option to purchase that property expired; that use of that property also presented problems involving needed approval to install a public grade crossing across ConRail railroad tracks; that applicant secured a lease of the New London Municipal Pier for use as an alternate docking site; that the lease of the Municipal Pier expired December 1, 1976, and the city is not willing to extend it for use by a second ferry service to Long Island; that in connection with an urban renewal plan in the Shaws Cove area of New London the New London Redevelopment Agency is willing to enter into discussions and negotiations with applicant regarding use of the so-called DeNoia property near Bank and Sparyard Streets as a ferry parking and staging area; that applicant would be competing with other development proposals, and the agency's letters (the most recent one is dated February 23, 1977) indicate that part of any proposal submitted by applicant should include rehabilitation of the main building now being used by DeNoia Furniture; that the New London City Council subsequently expressed reservations to the redevelopment agency about the proposal for applicant's ferry service at the Sparyard crossing; that Kellems Realty Corp., owns a dock (the old coal dock) across the railroad tracks from the redevelopment

agency property; that applicant has an option (expiring September 3, 1977) to purchase that dock; that there is presently an open grade crossing between the Kellems' dock and Sparyard Street; that applicant states that the redevelopment agency has informed it that the crossing will be equipped with a signaling device that will be paid for by the Federal Highway Administration, which assertedly has agreed to allow the existing grade crossing to remain open since foreclosure of its use would render the shore line property useless; that Downtown New London Association, Alfred S. Bicknell, operator of the Fishers Island Ferry, and Nelseco Navigation Company, interveners pursuant to the April 5, 1977, reopening order, failed to file evidence in reply; and that apparently their interests, which were centered on the proposed use of the Municipal Pier at New London, are satisfied now that that pier is not available to applicant;

It further appearing, That with respect to matters involving docking, staging, and loading as to which the record was reopened, the updated evidence of record shows that applicant still has various property right acquisitions to make or settle with finality, improvements to make, compliance with various local, State, and Federal regulations to achieve, and other governmental approvals to secure before it will be able to begin ferry operations; that, however, it still has active pending plans with respect to those matters; that the harbor site situations are largely unchanged from those of record at the time the prior report conditionally granted the application; that under the circumstances present in this case, involving numerous shore preparations subject to powers of control by other governmental entities and attracting extensive local public interest, is not reasonable for this Commission to require that all such preparations actually be approved and carried out before a finding is made that with respect to the Interstate Commerce Act the public convenience and necessity justifies granting the application; that a 3-year term certificate such as was authorized in the prior report will give applicant an opportunity to continue its attempt to carry its proposal into fruition while at the same time establishing reasonable safeguards should applicant be unable to get other approvals needed or unwilling to follow through; and that the application should be granted subject to the same conditions and understandings as are outlined in the prior report; and good cause appearing therefor:

We find on further consideration, That the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by water, of general commodities and passengers by self-propelled vessels, between New London, Conn., and Greenport, Long Island, N.Y.; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder; that a certificate authorizing such operation should be granted subject to the condition that it shall be limited, in point of time, to a period expiring 3 years from its date of issue; that should applicant wish an extension of the certificate, it shall, within the 33rd month after issuance of the certificate, file a petition for its limited or permanent extension and demonstrate that it has been generally operating as it has proposed or under a more environmentally beneficial alternative, has endeavored to minimize adverse environmental impacts, and is in compliance with the Interstate Commerce Act and the applicable rules and regulations thereunder; that this decision is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969; and that in all other respects the application should be denied.

It is further ordered, That said application, except to the extent granted herein, be, and it is hereby, denied.

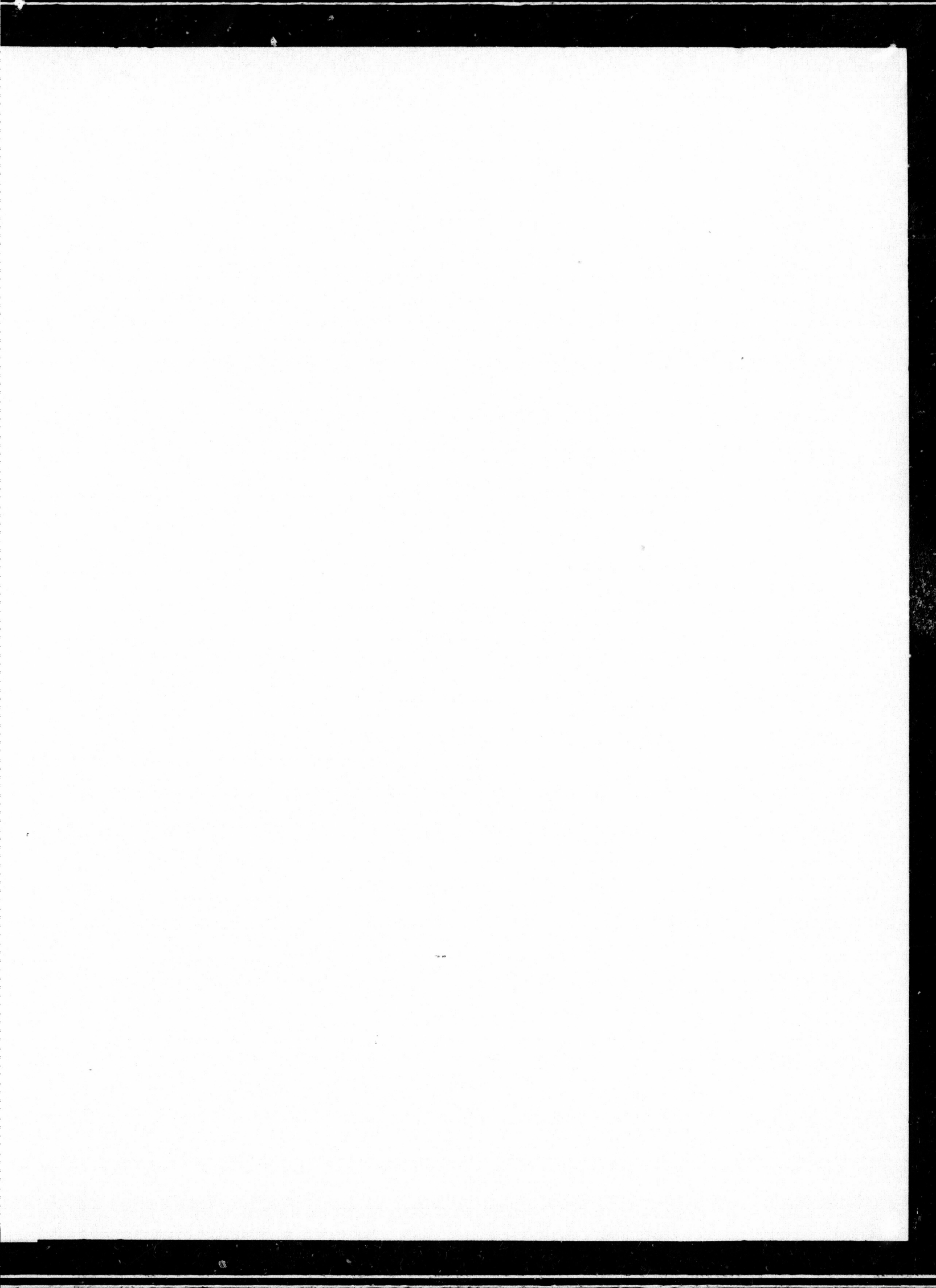
It is further ordered, That upon compliance by applicant with the requirements of sections 306 and 315(a) of the Interstate Commerce Act and with the Commission's rules and regulations thereunder, within the time specified in the next succeeding paragraph, an appropriate limited-term certificate will be issued.

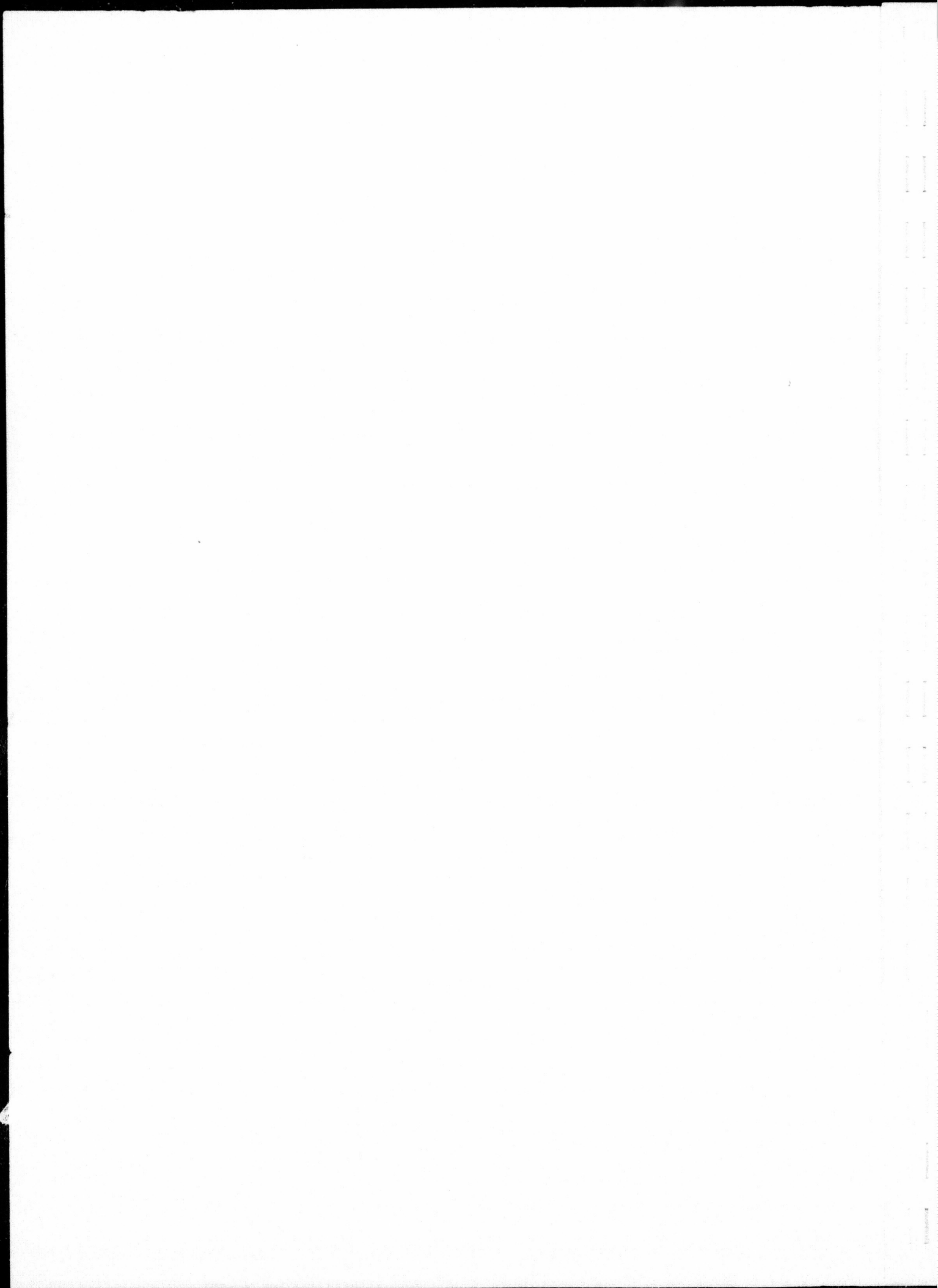
It is further ordered, That unless compliance is made by applicant with the requirements of sections 306 and 315(a) of the act within 90 days after the date of service hereof, or within such additional time as may be authorized by the Commission, the limited-term grant of authority made herein shall be considered as null and void and the application shall stand denied in its entirety effective upon the expiration of the said compliance time.

By the Commission, Division 1, Acting as an Appellate Division, Commissioners Murphy, Gresham, and MacFarland. (Commissioner Murphy did not participate)

(SEAL)

H. G. HOMME, JR.,
Acting Secretary.





DOCUMENT 383



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Before the
INTERSTATE COMMERCE COMMISSION

Docket No. W-1270
MASCONY TRANSPORT AND FERRY SERVICES, INC.
- INITIAL OPERATIONS -
NEW LONDON TO GREENPORT, L.I., NEW YORK

PETITION FOR RECONSIDERATION

CROSS-SOUND FERRY SERVICES, INC.

By Peter A. Greene
Its Attorney

Of Counsel:

CALDWELL & GREENE
900 17th Street, N.W.
Washington, D.C. 20006

Dated: July 12, 1977

Before the
INTERSTATE COMMERCE COMMISSION

Docket No. W-1270

MASCONY TRANSPORT AND FERRY SERVICES, INC.

- INITIAL OPERATIONS -

NEW LONDON TO GREENPORT, L.I., NEW YORK

PETITION FOR RECONSIDERATION

I

PREFACE

The Order of the quorum of Division 1 to which this petition is directed perpetuates and, in fact, further aggravates the fatally defective manner in which this case has been processed since submittal for Commission level decision. The latest action by the majority does nothing to cure the serious deficiencies noted in our petition of December 20, 1976 and Cross-Sound therefore continues to assert those allegations and incorporates them by reference as if they were recited herein. In addition, Cross-Sound submits that the instant Order is in error in the following respects:

1. The Majority Persists In Unlawfully Relieving Applicant Of Its Statutory Burden.

The Division reopened this proceeding to allow applicant to submit evidence of operationally feasible plans for docking, staging and loading. Applicant's latest presentation confirmed beyond any serious question that, even though it has had four years and numerous opportunities to do so, it is simply incapable of presenting a realistic operating proposal. Notwithstanding this fact the majority has once again relieved applicant of its statutory burden of demonstrating its fitness including the operational feasibility of its proposal.

2. In Denying The Request Of Amtrak To Present Evidence Of The Inherently Dangerous Nature Of Applicant's Most Recent Proposal The Majority Has Once Again Demonstrated Its Determination To Avoid Consideration Of Any Evidence Which Runs Counter To Its Predisposition To Grant The Application.

On April 26, 1977 applicant for the first time disclosed its intention to use the so-called Kellams property as its docking facility at New London. Until then Amtrak had no basis for any interest in applicant's proposal. The majority, however, has denied Amtrak the opportunity to explain the very serious dangers inherent in applicant's latest plan "at this late date" even though it has no problem with applicant's first proposing its new plan "at this late date". Such a double standard is patently arbitrary and capricious and does violence to concepts of fundamental fairness and due process.

3. By Continuing Its Insistence Upon Granting The Application Without Affording The Parties Any Opportunity For Oral Hearings Subsequent To The Issuance Of A Final Environmental Impact Statement The Latest Action Of The Commission Continues To Be In Violation Of NEPA And The Commission's Regulations Thereunder.

Notwithstanding the Commission's own recognition that due process requires that issuance of the final EIS must precede rather than follow oral hearings the Commission has failed to provide the parties an opportunity to be heard and to cross-examine subsequent to the full exposition of relevant environmental factors contained in the final EIS.

4. By Rendering Its Decision Within Five Working Days Of Of The Last Evidentiary Submission The Majority Has Acted In A Manner Which Denies The Parties Due Process.

While expedition is certainly commendable, the alacrity with which the Commission produced this most recent Order stands in such sharp contrast to the procedural pace which preceded it and the rate at which the Commission generally processes equivalent matters as to suggest that the most recent submissions of evidence, particularly the evidentiary submission of Amtrak which was summarily rejected, were not the subject of the type of careful deliberative action which is an essential element of adjudicative due process. The situation is further aggravated by the fact that the Commission's quick-draw reaction effectively denied input into the deliber-

ations by the Commissioner who had previously dissented so emphatically in this proceeding. The effect is to deny fundamental fairness to opposing parties, particularly the local civic interests which will be so seriously harmed by implementation of applicant's proposal.

II

ARGUMENT IN SUPPORT OF
SPECIFICATIONS OF ALLEGED ERROR

1. The Majority Persists In Unlawfully Relieving Applicant Of Its Statutory Burden.

Although the Commission has discretion in evaluating evidence and applying applicable statutory standards, it has no discretion to waive the plainly stated requirement that a grant of operating authority must be grounded upon an affirmative finding of fitness. In turn, a finding of fitness requires a determination that applicant's proposal is operationally feasible. Stone Lines, Inc., Contract Carrier Application, 54 M.C.C. 310 (1952) and Bowman Transp. Inc., Ext.--Florida, 107 M.C.C. 876, 881 (1968). The majority has committed patent error by making a finding of fitness while at the same time virtually conceding the fact that the applicant has failed to present an operationally feasible proposal. By its Order served April 18, 1977 the Division obviously recognized and acknowledged that the record as it

theretofore existed did not contain evidence sufficient to sustain a finding of operational feasibility. Nothing in applicant's latest presentation has cured that deficiency.

At sheet 3 of its Order the majority recognizes that:

" . . . the updated evidence of record shows that applicant still has various property right acquisitions to make or settle with finality, improvements to make, compliance with various local, State, and Federal regulations to achieve, and other governmental approvals to secure before it will be able to begin ferry operations . . ."

Unfortunately, the majority obviously misconstrues the significance of these formidable obstacles which still exist some four years after the filing of the application when they should have been resolved before the application was filed. Specifically, the majority goes on to state that, notwithstanding the many unresolved impediments to establishment of a viable operation, it:

" . . . is not reasonable for this Commission to require that all such preparations actually be approved and carried out before a finding is made that with respect to the Interstate Commerce Act the public convenience and necessity justifies granting the application . . ."

Such a statement betrays a fundamental and alarming misconception of the dual nature of the statutory standard applicable to cases of this type. What the majority obviously fails to recognize is that operational feasibility has nothing to do with public convenience and necessity. Rather, it

relates to fitness. We fully agree that it certainly is not reasonable to require a showing of operational feasibility as a prerequisite to a finding of public convenience and necessity. We are not aware that anyone has ever put forward such a contention. On the other hand it is not only reasonable but legally essential to require a showing of operational feasibility as a prerequisite to a finding of fitness.

Applicant has clearly failed to make the required showing and the majority's attempt to overcome this basic deficiency by misapplication of the term certificate procedures constitutes fundamental error. A term certificate is an appropriate device in situations wherein applicant has demonstrated its current fitness but its past activities are the basis for concern as to whether it can be expected to remain in compliance with applicable requirements once it is awarded authority. Here the situation is fundamentally different. Applicant is concededly unfit but the majority seeks to overcome that fact by allowing it three years to experiment with the safety and property of the public in order to see if it can somehow perform an operation which it has not even been able to properly articulate.

Aside from the inherent irresponsibility of such a technique it is patently illegal since the Commission must, as an essential prerequisite to issuance of authority, make

an affirmative finding of fitness based on legally sufficient evidence. By persisting in its efforts to avoid that obligation the majority only serves to prolong the ultimate outcome by producing a decision which no Court of Appeals can or will sustain.

2. In Denying The Request Of Amtrak To Present Evidence Of The Inherently Dangerous Nature Of Applicant's Most Recent Proposal The Majority Has Once Again Demonstrated Its Determination To Avoid Consideration Of Any Evidence Which Runs Counter To Its Predisposition To Grant The Application.

For almost three years prior to its filing on April 26, 1977 applicant insisted that its docking site at New London would be at the New London Municipal Pier. It was during that three year period that Amtrak first acquired the rail line which lies directly in front of applicant's newly announced loading site. When Amtrak first became aware of applicant's new plan it asked the Commission for a brief delay in the due date for responsive submissions in order to fully familiarize itself with the situation. That request was denied. Very shortly thereafter Amtrak filed a petition for leave to intervene for the purpose of submission of expert testimony explaining that applicant's proposal:

" . . . will produce such catastrophic potential for accidents that approval of the requested authority could result in a major national tragedy involving multiple fatalities and injuries."

With an incredible lack of sensitivity to its responsibility to the public, the majority takes the position that it has no interest in hearing about such matters "at this late date". In doing so it displays once again the proclivity for affording applicant seemingly endless opportunities to shore up its presentation while refusing to consider evidence of knowledgeable experts demonstrating the improvidence of applicant's proposal. As Commissioner Murphy so aptly observed: "If this is due process, then a new explanation of the term is necessary." 353 I.C.C. 60, at p. 74.

Even aside from the question of the nature of the evidence sought to be presented by Amtrak, the mere denial of an opportunity to participate constitutes fundamental error. While intervention is a matter of discretion, that discretion may not be abused. Where, as here, the Commission has denied intervention to petitioners who have acted in a timely fashion upon first becoming aware of circumstances in which they have an interest, the Commission abuses its discretion in denying intervention. See, for example, S.C. Loveland Co., Inc. v. U.S., 534 F.2d 958 (D.C. Cir. 1976) in which the Commission was only recently reminded of this principle.

3. By Continuing Its Insistence Upon Granting The Application Without Affording The Parties Any Opportunity For Oral Hearings Subsequent To The Issuance Of A Final Environmental Impact Statement The Latest Action Of The Commission Continues To Be In Violation Of NEPA And The Commission's Regulations Thereunder.

In its most recent Order the majority persists in its failure to afford the parties oral hearing in order to test the validity of the environmental data that was first collected and the environmental conclusions that were first reached after conclusion of oral hearings. Cross-Sound submits that such denial renders defective the environmental determination contained in the most recent Order. The basis for this position is set out at pages 6-8 of Cross-Sound's petition of December 20, 1976 and Cross-Sound incorporates that material by reference herein rather than repeating the same verbatim.

4. By Rendering Its Decision Within Five Working Days Of The Last Evidentiary Submission The Majority Has Acted In A Manner Which Denies The Parties Due Process.

The Commission's concern for expeditious conclusion of this proceeding is certainly understandable, particularly in view of the fact that the unconscionable delay is attributable exclusively to the Commission rather than to any dilatory activity by the parties. Notwithstanding, the desire for prompt action cannot justify unfairness where, as here, the subject matter of the proceeding is one of very serious and wide-spread public concern.

In this reopened proceeding the last evidentiary submission, albeit one which was summarily rejected, was that of Amtrak which was tendered to the Commission on June 7, 1977. There is no way to determine from the record how long it took for that filing to work its way through the Commission's internal channels until it came to the attention of whoever drafted the Commission's latest Order. Even assuming, however, that it was delivered into the proper hands immediately there could have been only five working days to consider the vitally important evidence contained in that filing, to evaluate it, to make the determination to reject it, and then to prepare, circulate and vote upon the Order which was entered on June 14, 1977.

If this were a routine case involving only the most basic and clear-cut issues such speed of handling would still contrast sharply with the general rate of flow of similar matters through the Commission's processes. However, for a case of this magnitude, which has been the subject of extensive evidentiary procedures, a lengthy prior decision incorporating a vigorous dissent, and wide-spread public attention and interest, such speed is nothing less than startling. It creates the unmistakeable impression that the most recent evidentiary submissions were accorded substantially less than the careful, objective evaluation.

that is a basic ingredient of due process. This impression is intensified by the fact that the decision was entered without participation by the Commissioner who in the prior report wrote a vigorous, incisive dissent raising numerous points of error which have not been cured by subsequent proceedings.

The majority's "rush to judgment" will not pass muster under the Administrative Procedure Act and is violative of even the most rudimentary concepts of fundamental fairness.

III

CONCLUSION

Cross-Sound submits this petition for reconsideration with continuing hope that the majority will recognize the essential wisdom of Commissioner Murphy's observation that the public interest can best be served by denial of the instant application without prejudice to refiling at such time as applicant is prepared to submit a workable, feasible plan of operation which could reasonably meet essential statutory prerequisites.

WHEREFORE, Cross-Sound respectfully prays for entry of an appropriate Order denying the application in its entirety.

ORAL ARGUMENT IS REQUESTED

Respectfully submitted,

CROSS-SOUND FERRY SERVICES,

By _____

Peter A. Greene

Its Attorney

Of Counsel:

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Dated: July 12, 1977

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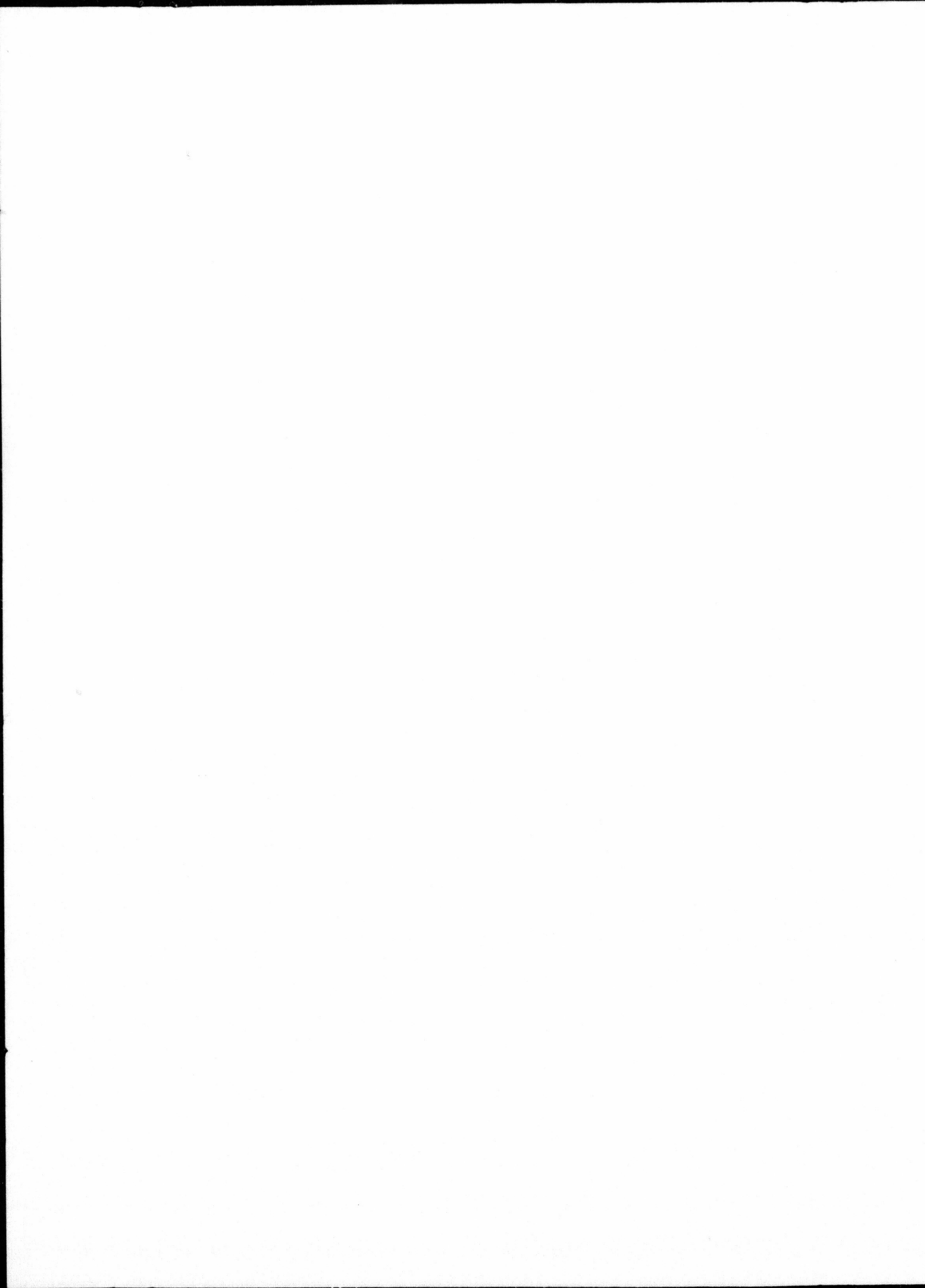
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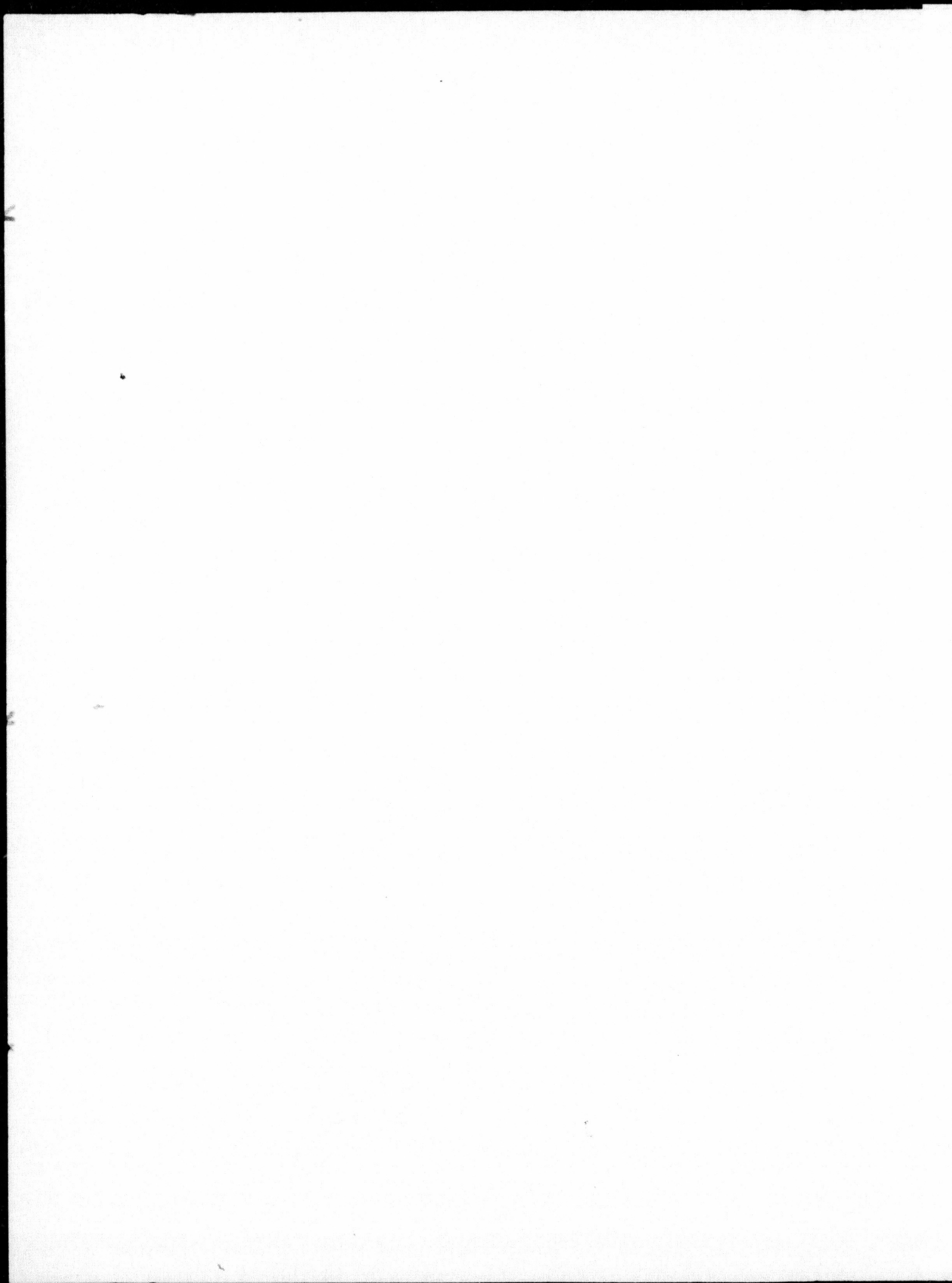
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DOCUMENT 386



Before the
INTERSTATE COMMERCE COMMISSION

Docket No. W-1270

MASCONY TRANSPORT AND FERRY SERVICE, INC.
INITIAL OPERATIONS - NEW LONDON TO GREENPORT, L.I., NEW YORK

PETITION FOR RECONSIDERATION
ON BEHALF OF THE INTERVENOR
VILLAGE OF GREENPORT

VILLAGE OF GREENPORT

by JOHN J. MUNZEL, ESQ.
VILLAGE ATTORNEY

DATED: July 14, 1977

Before the
INTERSTATE COMMERCE COMMISSION

Docket No. W-1270

MASCONY TRANSPORT AND FERRY SERVICE, INC.
INITIAL OPERATIONS - NEW LONDON TO GREENPORT, L.I., NEW YORK

PETITIONS FOR RECONSIDERATION
ON BEHALF OF THE INTERVENOR
VILLAGE OF GREENPORT

Comes now the Village of Greenport, an intervenor in the above captioned proceeding, and files this Petition for reconsideration of the Interstate Commerce Commission Order of June 16, 1977, which reaffirmed the grant of the application of the Mascony Transport and Ferry Service, Inc. for a limited license. In support of its Petition, the Village of Greenport states as follows:

I

PRELIMINARY STATEMENT

The Mascony Transport and Ferry Service, Inc. sought to obtain authorization to operate a ferry service within the Village of Greenport and New London, Connecticut. Long after public hearings were held and after environmental impact statements were filed without opportunity for public hearings thereon,

the decision of the Commission, Division I was served on November 19, 1976, granting the application of Mascony Transport and Ferry Service, Inc. for a limited period of three years. Thereafter, Petitions for reconsideration were filed by numerous parties and Petitions to intervene were also made by other parties, which decision denied reconsideration and denied the intervention. It is respectfully submitted that the Commission erred in the following areas:

1. The Commission failed to allow public hearings on the environmental impact statement as required by its own rules and regulations.
2. The Commission erred in granting the application without firm proof of operational ability on the part of the applicant.
3. The Commission erred in failing to allow National Railroad Passenger Corporation (Amtrak) to intervene.
4. The Commission failed to give adequate consideration to the Petition for reconsideration and Petitions for intervention.

POINT 1

The Commission failed to allow public hearings on the environmental impact statement as required by its own rules and regulations.

The rules of the Interstate Commerce Commission and the National Environmental Policy Act of 1969 (Public Law 81-190, 83 STAT. 852) require that environmental impact statements be subjected to public hearings. In this instance, this was clearly not done, thereby depriving the citizens and the government of the Village of Greenport opportunity to comment on various aspects of the environmental impact statement.

The purpose of requiring public hearings is to afford the public an opportunity to be heard, particularly where the citizenry are possessed with local knowledge. In this instance, there are various areas of local knowledge which would have had great effect on the environmental impact statement. Among these were the traffic considerations, the harbor facilities, together with the dangers of the waters of Greenport harbor and the swift currents and the sewer and water pipings under the various streets.

Although during the public hearings there was much discussion regarding the traffic situation in the Village of Greenport, no such opportunity was had for the purposes of the environmental impact statement. Also, the currents in the harbor of Greenport, the great number of private and fishing vessels, the proximity of the Shelter Island Ferry Company, and the vast size of the vessels proposed to be used by the applicant were not taken into consideration for the purposes of the en-

vironmental impact statement. The persons with local knowledge of all of these matters were not permitted to give evidence or to take part in any hearings. As a result, the environmental impact statement is lacking in its basic fact-finding tool, any of the local knowledge of those persons who are most familiar with the area.

For this reason alone and as it was a violation of the rules of the Interstate Commerce Commission and the National Environmental Policy Act, the determination of the decision on the reconsideration should be reversed.

POINT 2

The Commission granted the application of Mascony Transport and Ferry Service Inc. despite the failure on the part of the applicant to show operational feasibility. It is basic to an application for an Interstate Commerce Commission license that the applicant have the burden of proof to show operational feasibility. The applicant has failed to show its operational feasibility insofar as its landings sites at Greenport and New London are concerned and its operational feasibility in the utilization of its vessels.

Insofar as the Village of Greenport is concerned, the applicant relies on the Mitchell property, which is presently in liti-

gation, which facts were more fully set forth in the Petition for reconsideration made on behalf of the Mitchell family by their attorneys, Scheinberg, Wolf, Lapham and DePetris by Richard DePetris, Esq.

Furthermore, the ability of the applicant to perform was severely put in issue by the opposition of the Cross Sound Ferry Service, Inc. which clearly showed that the vessels were transferred to various individuals or actually under foreclosure.

With regard to the New London landing site, the applicant proposed that it was entering into negotiations with the Redevelopment Agency of the City of New London for the acquisition of certain property.

The verified statement of Thomas Dimaggio, a member of the City Council of the City of New London, clearly sets forth that the Redevelopment Agency of the City of New London may negotiate and discuss forever, but it is the City Council of the City of New London which acts on any proposals and then, only after it is reviewed by the City Planning Board.

Mr. Dimaggio's statement clearly states that he has grave doubts as to whether or not the Planning Board would endorse or the City Council would approve any agreement.

POINT 3

The Commission erred in failing to allow the National Railroad Passenger Corporation (Amtrak) to intervene.

The Petition for intervention by the National Railroad Transportation Corporation, dated June 7, 1977, is on behalf of a very substantial public carrier. In its Petition, it is pointed out on page 3 of the Affidavit of Bruce L. Gordon, the Director of State Affairs for the National Railroad Passenger Corporation (Amtrak) that, "Amtrak presently operates some 7,765 trains per year via New London, carrying some 774,500 passengers. This averages 21 trains and 2,122 people per day." The applicant in this instance estimates that it will book 66,385 vehicles and carry some 300,000 passengers annually, approximating 182 vehicles and 822 passengers per day. The combined totals of these, namely, 66,385 vehicles, 7,765 trains, and 1,074,500 passengers, all converge at the intersection of Amtrak and the unloading facility at New London annually. On a daily basis, this will be on the average, 182 vehicles, 21 trains and almost 3,000 persons per day converging at the same intersection. Most of these, of course, will be during the twelve hour period between 8:00 A.M. and 8:00 P.M. Furthermore, a cursory view of the landing site at New London shows that between the railroad tracks and the next intersection is a distance of approximately one hundred feet, requiring a turn to the right and another intersection one hundred feet beyond

that requiring a turn to the left along a very narrow street. Vehicles awaiting to make these turns will be backed up, some onto the Amtrak tracks and others onto the pier. The inherent danger of this New London site is so great that in the opinion of your deponent, the granting of the application is tantamount to gross negligence.

POINT 4

Between the last day of filing the Petitions for reconsideration and the final decision, there were five working days.

In view of the voluminous papers filed and the short time between the last date of filing and the decision on the Petitions for reconsideration, it is apparent that the Commission did not have time to intelligently review the various Petitions for reconsideration and the Petitions to intervene. It is apparent that the decision of the Commission had been reached long before the documents of the various parties were filed and the various Petitions did not receive the study and consideration that the safety of the public demanded.

WHEREFORE, for all the reasons set forth herein, the Village of Greenport respectfully prays that this Commission reconsider its decision and Order herein and after such reconsideration, deny the application of Mascony Transport and Ferry Service, Inc. to operate a ferry service between Greenport, Long Island, New

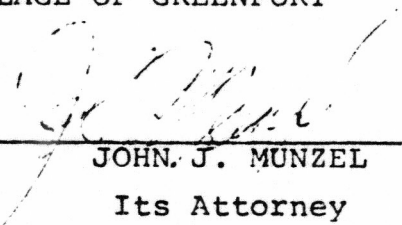
York and New London Connecticut, or, in the alternative, to reopen the proceedings for further hearings in order that intervenors and protestants might have an opportunity to introduce evidence reflecting the situation, in order that the Commission might have before it up to date information with which to prepare its decision.

ORAL ARGUMENT IS REQUESTED.

Respectfully submitted,

VILLAGE OF GREENPORT

by



JOHN J. MUNZEL

Its Attorney

Counsel:

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516-727-7345

CERTIFICATE OF SERVICE

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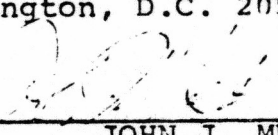
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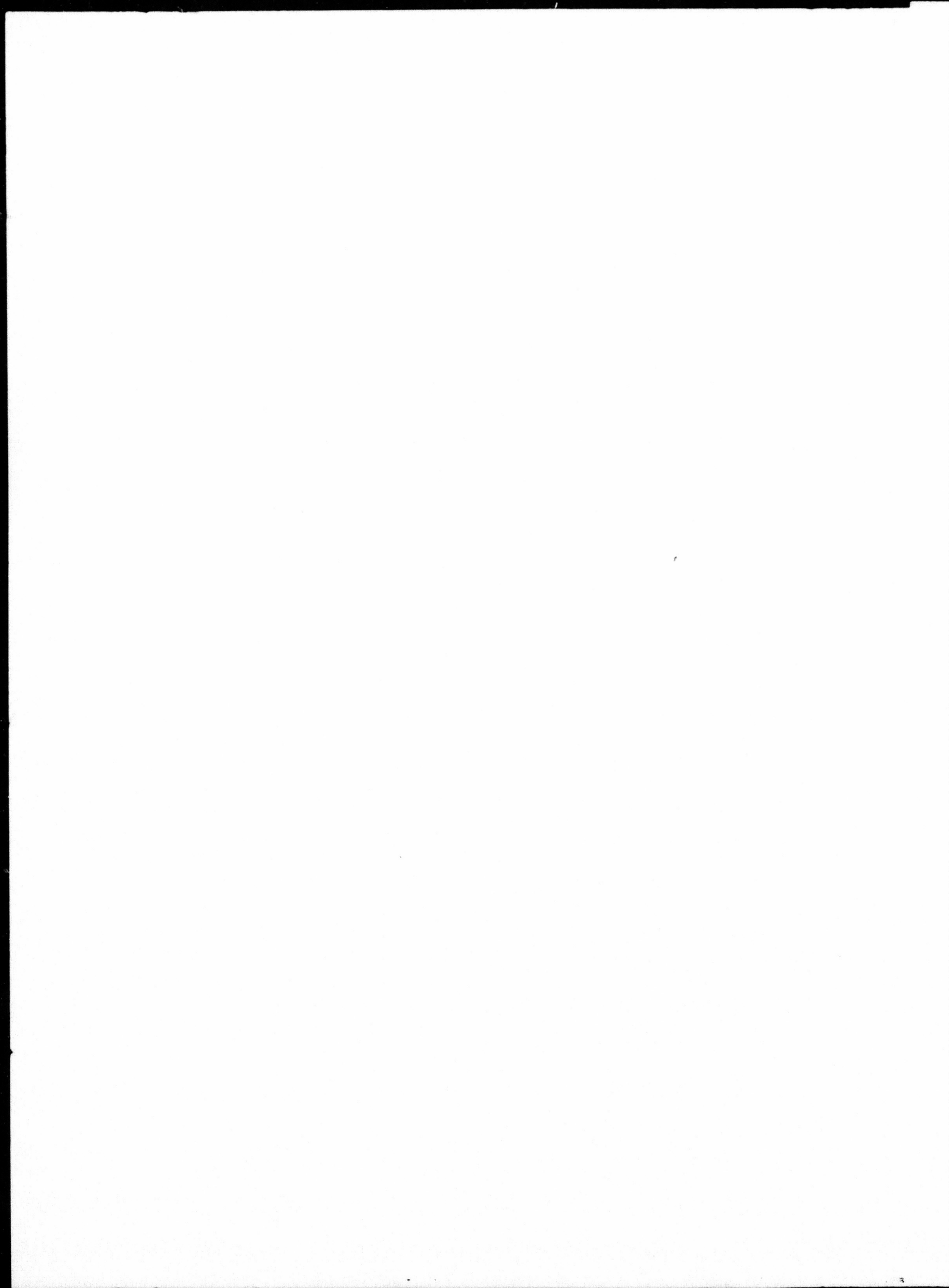
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DOCUMENT 388

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TELEPHONE
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223-9738

July 18, 1977

Robert L. Oswald, Secretary
Interstate Commerce Commission
Washington, D.C. 20423

Re: Docket No. W-1270
Mascony Transport & Ferry Services, Inc.

Dear Mr. Oswald:

This letter is on behalf of protestant, The Bridgeport and Port Jefferson Steamboat Company, in support of the petition for reconsideration submitted by Cross-Sound Ferry Services, Inc., dated July 12, 1977.

Please consider this letter as a request by The Bridgeport and Port Jefferson Steamboat Company for reconsideration of the Commission's order, for the reasons set forth in the pleading of Cross-Sound Ferry Services, Inc.

Very truly yours,

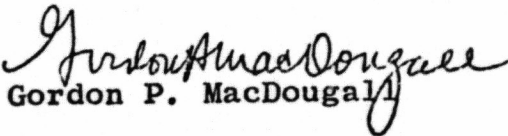


Attorney for The Bridgeport and
Port Jefferson Steamboat Company

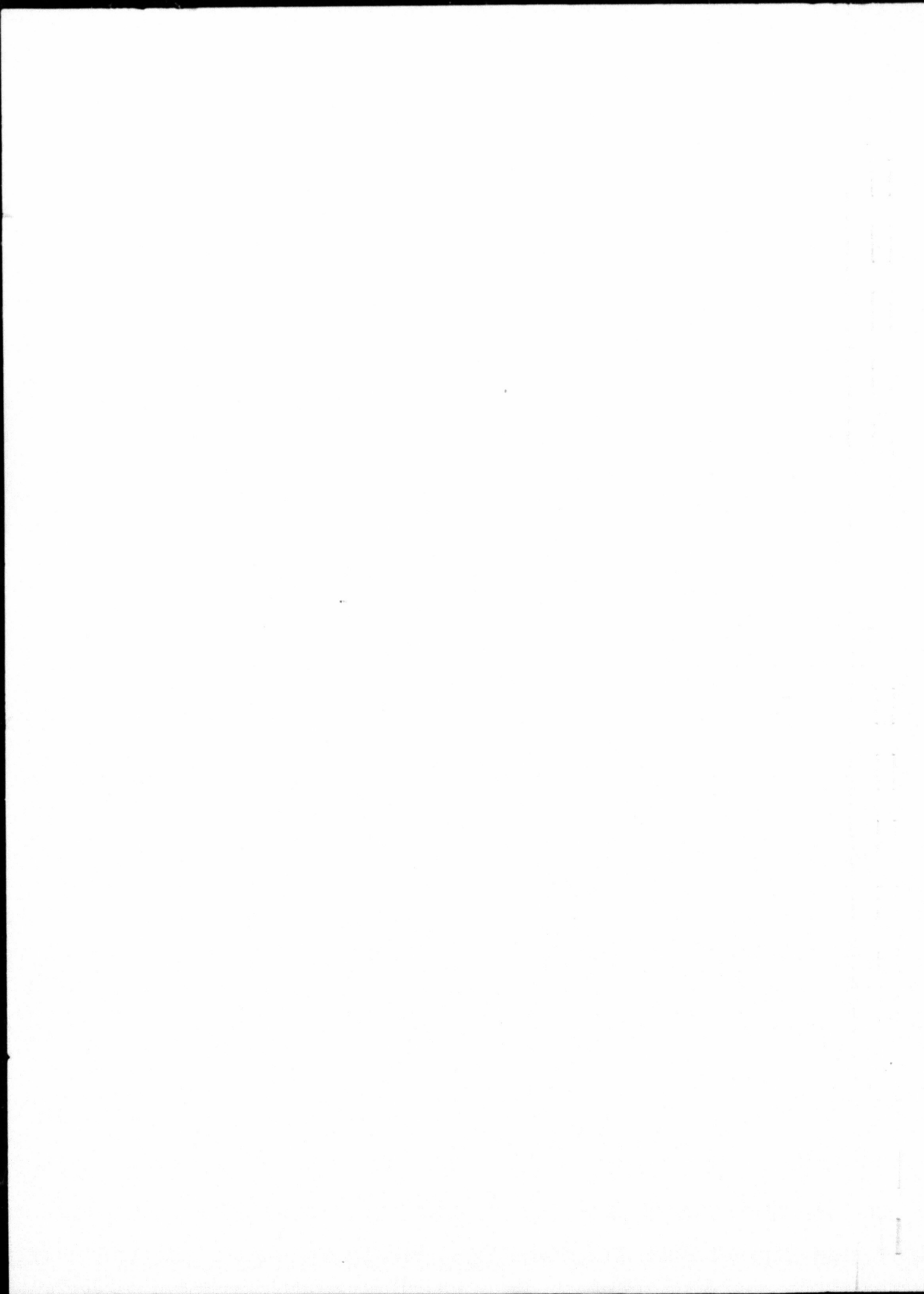
CERTIFICATE OF SERVICE

I hereby certify that I have this 18th day of July, 1977,
served a copy of the foregoing upon all parties of record by
first class mail postage-prepaid.

Washington, D.C.


Gordon P. MacDougall





DOCUMENT 390

Before the
INTERSTATE COMMERCE COMMISSION

Docket No. W-1270

MASCONY TRANSPORT AND FERRY SERVICE, INC.,
INITIAL OPERATIONS - NEW LONDON TO GREENPORT, L.I., NEW YORK

PETITION FOR RECONSIDERATION

SHELTER ISLAND AND GREENPORT
FERRY COMPANY, INC.

By Robert W. Tasker
Its Attorney

7
Dated: July 15, 1977

Before the
INTERSTATE COMMERCE COMMISSION

Docket No. W-1270

MASCONY TRANSPORT AND FERRY SERVICE, INC.,
INITIAL OPERATIONS - NEW LONDON TO GREENPORT, L.I., NEW YORK

PETITION FOR RECONSIDERATION

Comes now Shelter Island and Greenport Ferry Company, Inc. (SIGF) an intervenor in the above captioned proceeding, and submits its petition for Reconsideration of the decision of the Commission, division 1, served June 16, 1977. In support of its petition, SIGF states as follows:

PREFACE

1. The Commission committed procedural error in that it failed to provide for public hearings on its Environmental Impact Statement prior to oral hearings.
2. The Commission erred in finding that the applicant is fit, willing and able to provide the service applied for.
3. The Commission failed to adequately consider evidence submitted pursuant to the April 5, 1977 Order.

I.

THE COMMISSION COMMITTED PROCEDURAL
ERROR IN THAT IT FAILED TO PROVIDE FOR
PUBLIC HEARINGS ON ITS ENVIRONMENTAL
IMPACT STATEMENT PRIOR TO ORAL HEARINGS.

In this proceeding, oral hearings were conducted and concluded prior to the preparation of an environmental impact statement in violation of the National Environmental Protection Act and the rules of the Commission. Although the draft Environmental Impact Statement was circulated to the parties and a limited opportunity was given to comment thereon, this does not constitute compliance with either the law or the regulations. An opportunity to be heard and to examine witnesses with respect to the Environmental Impact Statement was not accorded the parties hereto. Such failure is a denial of due process.

II.

THE COMMISSION ERRED IN FINDING THAT
THE APPLICANT IS FIT, WILLING AND ABLE
TO PROVIDE THE SERVICE APPLIED FOR.

The reply statements submitted pursuant to April 5, 1977 Order demonstrate beyond question that the applicant has failed, after four years to come forth with a feasible plan of operations. The Commission has recognized this fact in its determinations. For the Commission to then make a finding of fitness is erroneous and warrants a reconsideration of its Order of June 14, 1977.

III.

THE COMMISSION FAILED TO ADEQUATELY
CONSIDER EVIDENCE SUBMITTED PURSUANT
TO THE APRIL 5, 1977 ORDER.

The latest order of the Commission was rendered within several working days after the submissions by the intervenors. Obviously, but scant consideration of the voluminous documents was given. It would even appear that a decision may have been arrived at prior to the receipt of such documents. It is also apparent that in denying the petition of Amtrak to intervene, the majority of the Commission is determined that it will grant approval of operating authority to Mascony in complete disregard to the safety of thousands of trains, passengers and vehicles.

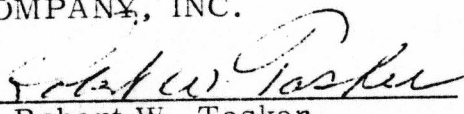
When the grave consequences of the grant of authority in the proceeding are contemplated in light of the cursory consideration given by the Commission, justice and fairness dictates that the Commission reconsider its June 14, 1977 Order.

WHEREFORE, for all the reasons set forth herein SIGF respectfully prays that the Commission reconsider its decision herein dated June 14, 1977 and after such reconsideration deny the application of Mascony to operate a ferry service between Greenport, Long Island, New York and New London, Connecticut.

Respectfully submitted,

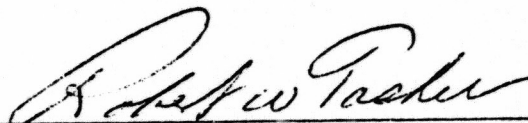
SHELTER ISLAND AND GREENPORT
FERRY COMPANY, INC.

By

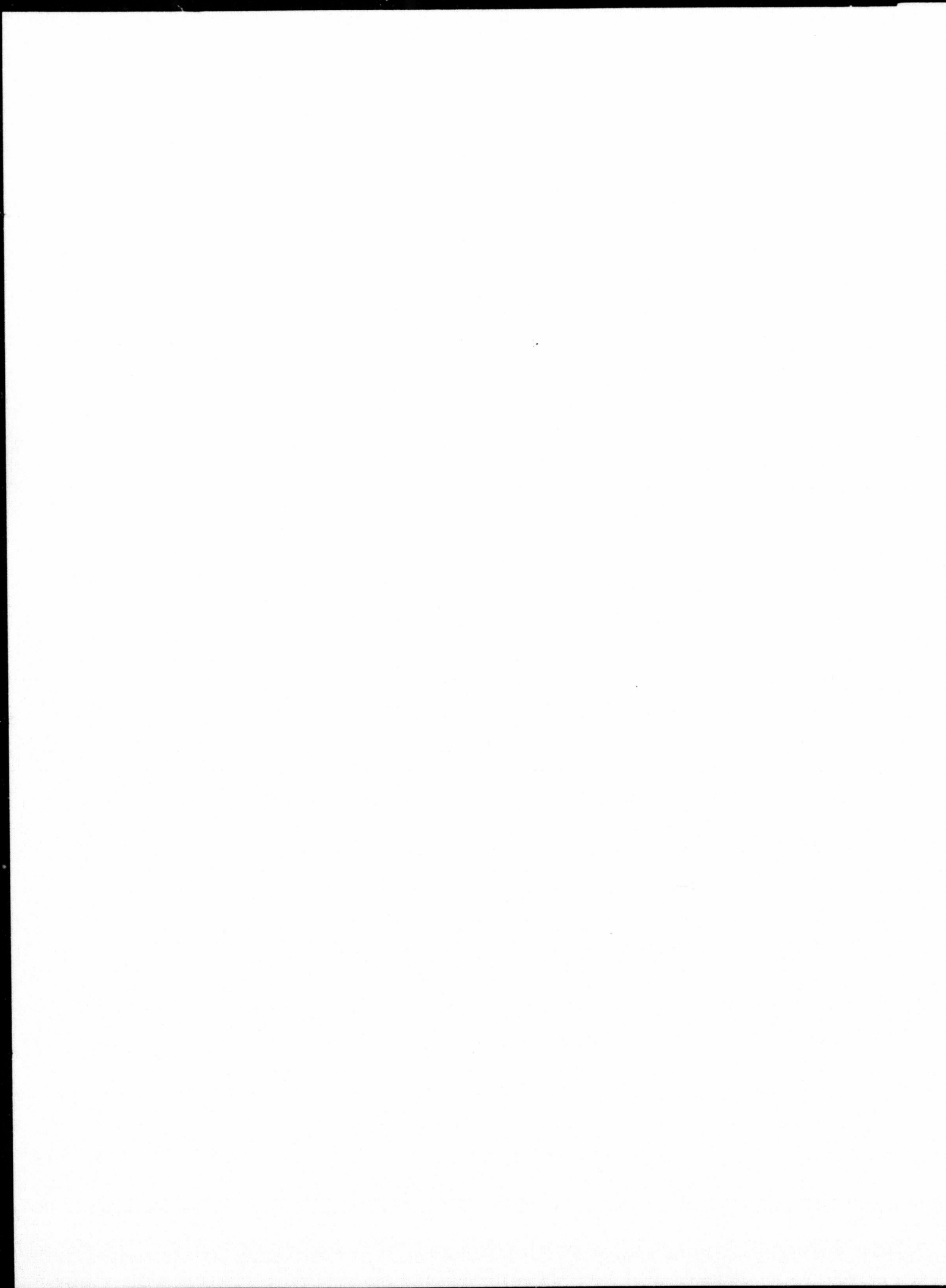

Robert W. Tasker
Its Attorney

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served upon all parties of record by first-class mail, postage-prepaid, this 15th day of July, 1977.

A handwritten signature in cursive script, appearing to read "Robert W. Tasker", written over a horizontal line.

Robert W. Tasker



DOCUMENT 391

BEFORE THE
INTERSTATE COMMERCE COMMISSION
WASHINGTON, D.C.

-----:
Mascony Transport and Ferry Services :
Inc. :
- Initial Operations - :
New London to Greenport, L.I., :
New York :
-----:

Docket No. W-1270

PETITION OF THE UNITED STATES
DEPARTMENT OF TRANSPORTATION
TO INTERVENE

LINDA HELLER KAMM
General Counsel

RAYMOND K. JAMES
Chief Counsel
Federal Railroad Administration

S. Mark Lindsey
Robert M. Churella
Attorneys
Federal Railroad Administration

400 Seventh Street, S.W.
Washington, D.C. 20590

August 1, 1977

BEFORE THE
INTERSTATE COMMERCE COMMISSION
WASHINGTON, D.C.

-----:
Mascony Transport and Ferry :
Svcs., Inc. :
- Initial Operations - :
New London to Greenport, L.I., :
New York :
-----:

Docket No. W-1270

PETITION OF THE UNITED STATES
DEPARTMENT OF TRANSPORTATION
TO INTERVENE

Petitioner United States Department of Transportation ("DOT"), representing that it has an interest in the matters in controversy in the instant proceeding, prays for leave to intervene, pursuant to Rule 70 of the Commission's Rules of Practice, in opposition to the grant of authority requested in the instant proceeding. As grounds for the proposed intervention, DOT states:

1. DOT has the general statutory mandate to oversee transportation safety and the specific mandate to advise the Commission of the safety fitness of applicants for permanent operating authority. 49 U.S.C. 1653(e). DOT believes that the proposed service would be unsafe in that the proposed ferry would load and unload under unsafe conditions in New London.
2. DOT is charged with the implementation of the Northeast Corridor Improvement Project ("NECIP") 45 U.S.C. 851 et seq. The NECIP is required to create dependable, high-speed rail passenger service over the Northeast Corridor main line railroad which vehicles must cross to reach or leave the proposed ferry service. The dependability and safety of the high-speed rail passenger service will be significantly affected by the outcome of this proceeding.

3. DOT has the authority to oversee railroad safety. 49 U.S.C. 1655(e); 45 U.S.C. 7421 et seq. DOT believes that the service proposed in this proceeding would have a substantial adverse impact on railroad safety for both freight and passenger operations on the Northeast Corridor main line.
4. DOT does not believe that its intervention will unnecessarily delay or unduly broaden the issues in this proceeding, nor will it unfairly prejudice any party.

WHEREFORE, DOT prays for leave to intervene in this proceeding and to have the document submitted concurrently herewith accepted for filing.

Respectfully submitted,

Raymond K. James
Chief Counsel
Federal Railroad Administration

August 1, 1977

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served, by first-class mail, postage prepaid, this 1st day of August, 1977 on the following:

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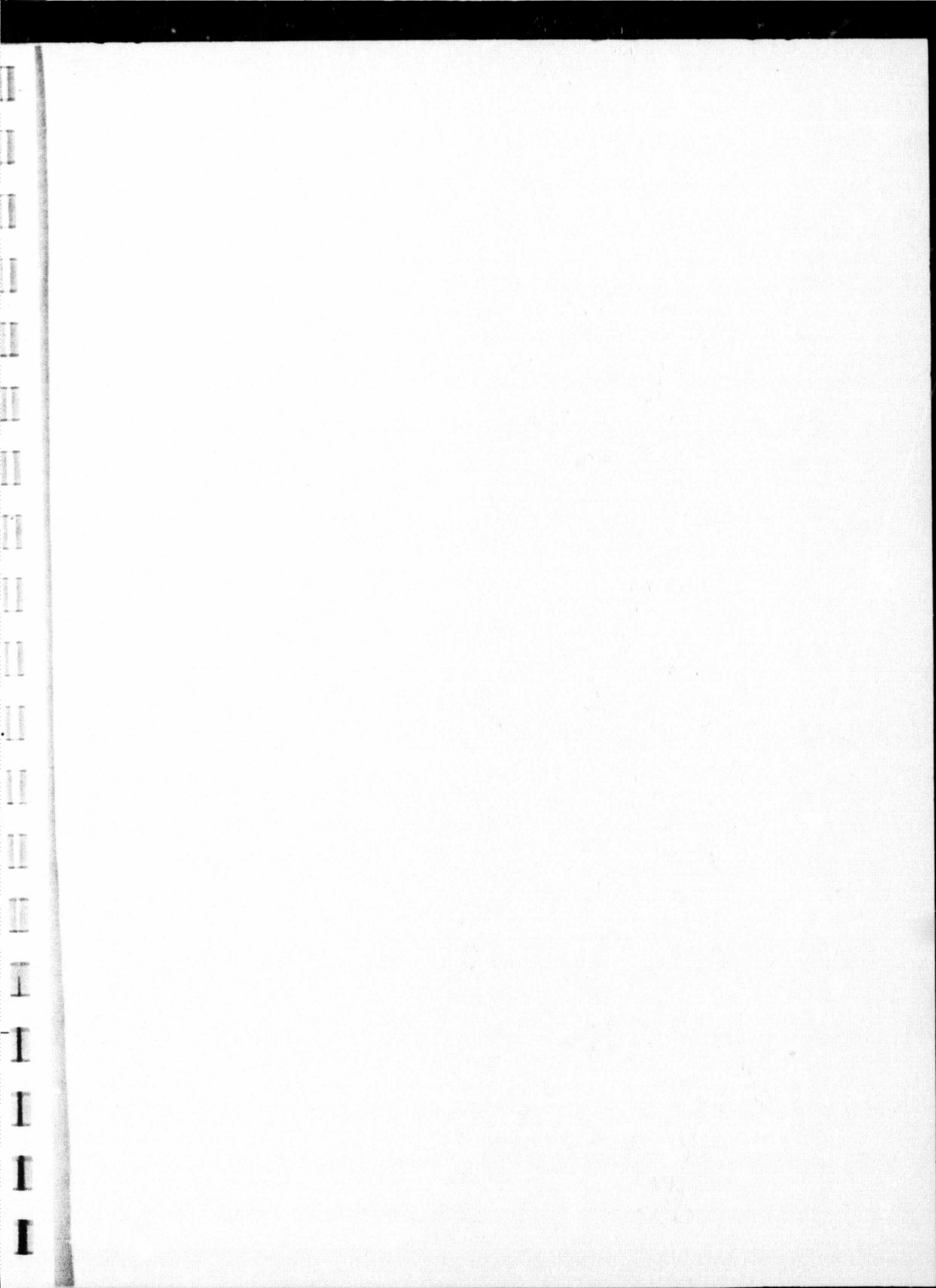
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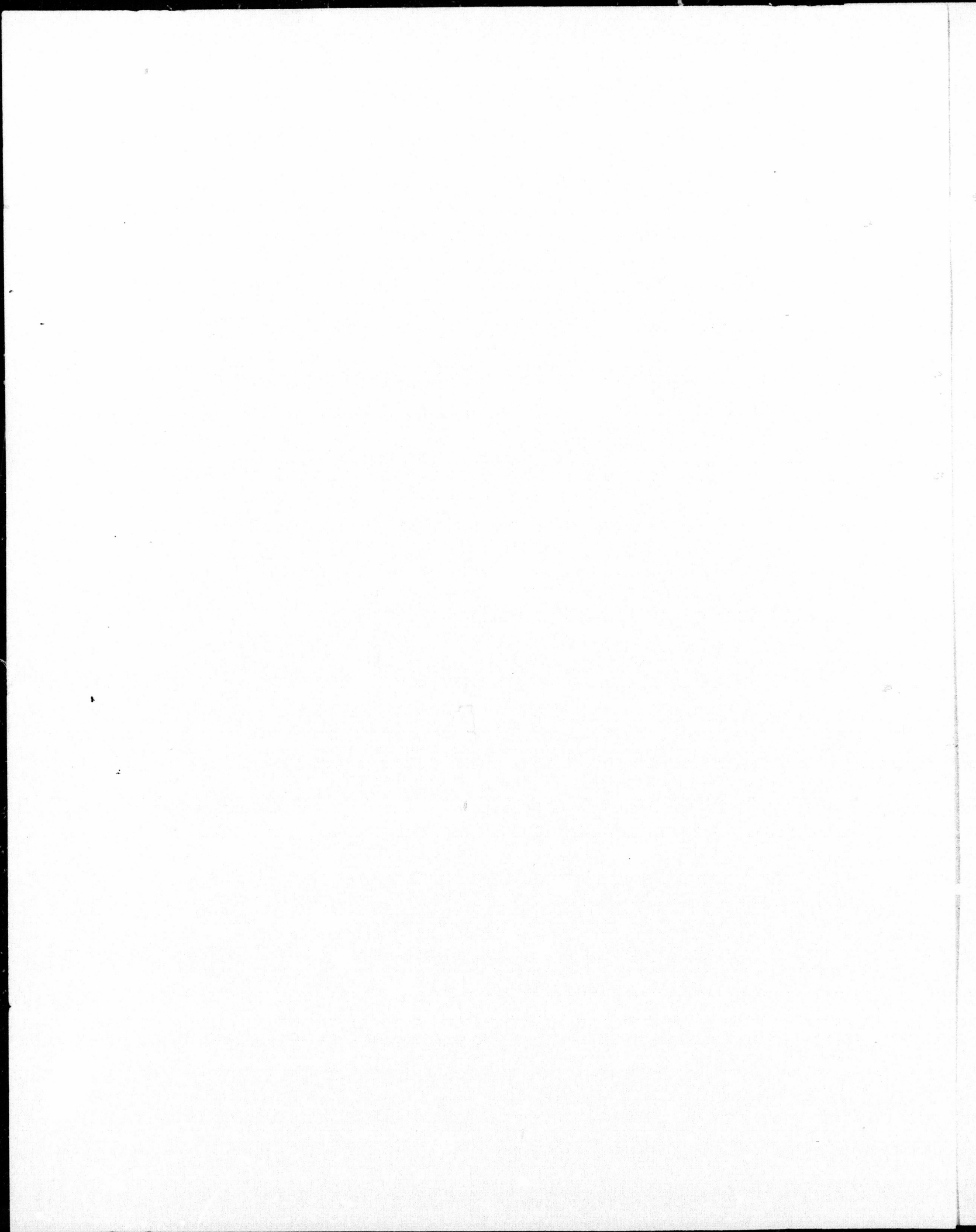
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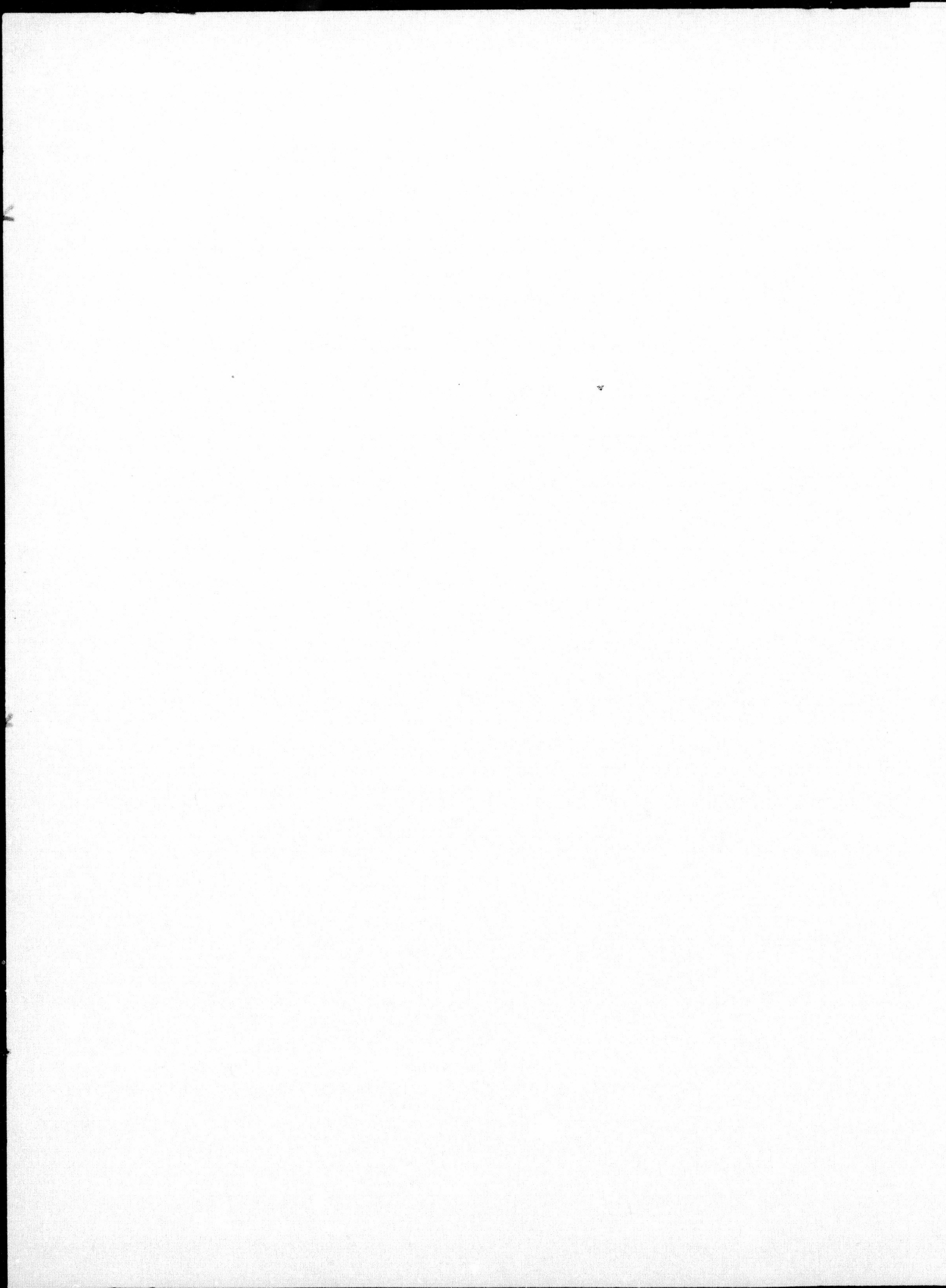
Gordon P. MacDougall, Esq.
1100 17th Street, N.W.
Washington, DC 20036

Robert M. Churella





DOCUMENT 392



BEFORE THE
INTERSTATE COMMERCE COMMISSION
WASHINGTON, D.C.

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Mascony Transport and Ferry Services :
Inc. :
- Initial Operations - :
New London to Greenport, L.I., :
New York :
-----:

Docket No. W-1270

PETITION OF THE UNITED STATES
DEPARTMENT OF TRANSPORTATION
FOR LEAVE TO SUBMIT A LATE-FILED
DOCUMENT

LINDA HELLER KAMM
General Counsel

RAYMOND K. JAMES
Chief Counsel
Federal Railroad Administration

S. Mark Lindsey
Robert M. Churella
Attorneys
Federal Railroad Administration

400 Seventh Street, S.W.
Washington, D.C. 20590

August 1, 1977

BEFORE THE
INTERSTATE COMMERCE COMMISSION
WASHINGTON, D.C.

-----:
Mascony Transport and Ferry Services :
Inc. :

- Initial Operations - :
New London to Greenport, L.I., :
New York :
-----:

Docket No. W-1270

PETITION OF THE UNITED STATES
DEPARTMENT OF TRANSPORTATION
FOR LEAVE TO SUBMIT A LATE-FILED
DOCUMENT

The United States Department of Transportation ("DOT") petitions the Commission for leave to submit the attached late-filed document. DOT was unable to file this document on time due to the short time between DOT's becoming aware of its interest in this proceeding and the filing deadline, the requirements of internal review and the intervening illness of the principal attorney in this matter.

Respectfully submitted,

Raymond K. James
Chief Counsel
Federal Railroad Administration

August 1, 1977

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served, by first-class mail, postage prepaid, this 1st day of August, 1977 on the following:

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Robert M. Churella

BEFORE THE
INTERSTATE COMMERCE COMMISSION
WASHINGTON, D.C.

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Mascony Transport and Ferry Services.,:
Inc. :
- Initial Operations - :
New London to Greenport, L.I., :
New York :
-----:

Docket No. W-127

PETITION OF THE UNITED STATES
DEPARTMENT OF TRANSPORTATION
FOR RECONSIDERATION

LINDA HELLER KAMM
General Counsel

RAYMOND K. JAMES
Chief Counsel
Federal Railroad Administration

S. Mark Lindsey
Robert M. Churella
Attorneys
Federal Railroad Administration

400 Seventh Street, S.W.
Washington, D.C. 20590

August 1, 1977

BEFORE THE
INTERSTATE COMMERCE COMMISSION
WASHINGTON, D.C.

-----:
:
Mascony Transport and Ferry Services, :
Inc. :
- Initial Operations - :
New London to Greenport, L.I., :
New York :
-----:

Docket No. W-1270

PETITION OF THE UNITED STATES
DEPARTMENT OF TRANSPORTATION
FOR RECONSIDERATION

I. Preface

The United States Department of Transportation ("DOT") urges the Commission to reverse its decision awarding a three-year term certificate to Mascony Transport and Ferry Services, Inc. ("Mascony") to operate ferry service between New London, Conn. and Greenport, N.Y. DOT's opposition to this service is based on the unacceptable safety hazard which will result from Mascony's proposed use of the Sparyard Street grade crossing. DOT believes that the Commission has failed to adequately consider the magnitude of this hazard, has acted contrary to the express policy of the Congress and of the Commission and has relied on unsupported, misleading and erroneous statements by Mascony in reaching its decision on the safety issue. In particular:

1. Division I's reliance in its most recent Order on the analysis of the Sparyard Street safety hazard contained in the Commission's EIS is unwarranted because that analysis is totally inadequate.

The analysis of the safety issue contained in the EIS is inadequate because it is based on assumptions of railroad traffic that totally ignore the projected 300% increase in traffic resulting from the Northeast Corridor Improvement Project. The safety analysis also fails to evaluate either the magnitude of the risks involved or the types of environmental damage that could result from accidents at the crossing. The EIS also suggested mitigation measures which the Commission itself has found to be of limited effectiveness, and which are directed solely to the risk of accidents and not to potential environmental impacts. Finally, the EIS failed to consider the air pollution and fuel consumption impacts of vehicles idling while waiting for trains to clear the tracks or while waiting to board or leave the ferries.

2. The Commission's decision that the projected 600,000 gallon fuel savings outweighs the potential environmental costs is arbitrary and capricious because it is based on the balancing of an unreliable estimate of benefits against a risk which is not quantified in the record.

Due process requires that any administrative decision be based on a rational evaluation of the evidence. There is no evidence in the record, either from Mascony or the Commission, to allow a rational evaluation of the risks, or a comparison of the risks versus the benefits. The Commission's conclusion is thus unsupported conjecture.

3. The Commission has improperly removed the burden of proof from Mascony on the issue of safety at the grade crossing.

The Administrative Procedure Act requires the burden of proof to be placed on the proponent of service. Mascony has produced no evidence on the safety of its proposed use of the grade crossing, while several parties have introduced, or attempted to introduce, evidence of the severe safety hazard that will be created.

4. Division I's decision is contrary to the express policy of Congress that the Interstate Commerce Act be interpreted so as to promote safety.
5. Division I's decision is contrary to the express policy of the Commission that the risk of grade crossing accidents should be reduced whenever possible.
6. Division I's decision is based on inaccurate, misleading and unsupported statements by Mascony concerning the installation of crossing gates and warning lights at the crossing.

Mascony has stated that the Federal Highway Administration of DOT will pay for installation of crossing gates and warning lights at the Sparyard Street crossing. DOT by statute has discretionary authority to install these devices at the crossing only if the crossing is of "unusually low potential hazard"; otherwise the crossing must be closed. We believe the service proposed by Mascony could create an unusually high potential hazard, and thus could force DOT to close the crossing, effectively shutting down Mascony's service and depriving New London of access to this section of its waterfront. Even if DOT could install these devices, Mascony is assuming that an estimated \$60,000 of public funds will be invested for its sole benefit.

II. Argument

1. Division I's reliance in its most recent Order on the analysis of the Sparyard Street safety hazard contained in the Commission's EIS is unwarranted because that analysis is totally inadequate.

DOT believes that the safety of the proposed service is one of the key criteria that must be considered by the Commission in evaluating the fitness of any applicant. The sole analysis in the record of the safety of Mascony's proposed service is contained in the Commission's EIS. DOT believes that that analysis is fatally deficient.

One of the basic requirements of any analysis is that it accurately state existing conditions and conditions under which the service will operate. If these conditions are not accurately stated, the analysis will be faulty because the range and magnitude of potential impacts will be based on unrealistic assumptions.

In its analysis of the safety issue, the Commission mentioned only the existing level of train traffic on the tracks crossed by the Sparyard Street crossing (353 ICC 60, 109). These tracks are a part of the Northeast Corridor which is currently being upgraded under a \$1.9 billion program administered by the Federal Railroad Administration ("FRA") pursuant to the Title VII of the Railroad Revitalization and Regulatory Reform Act. The FRA projected that train traffic on these tracks will increase to 80 trains per day by 1990 as a result of this project, an

increase of nearly 300% over existing traffic levels. The Commission's analysis makes no mention of this projected increase in traffic, and its impact analysis fails to reflect projected conditions accurately. The analysis is thus inadequate.

The Commission's analysis is also deficient because, although it recognizes the potential danger of collision at the crossing, it makes no attempt to estimate the magnitude of this risk, or the potential environmental consequences that could result from such collisions, and thus provides no basis for rationally evaluating these risks.

Due to the limited amount of time available, a full analysis of this risk by DOT has not been possible. However, the FRA has performed a preliminary analysis which indicates that with Mascony's proposed level of service of up to 800 vehicles per day, and the projected train traffic of 80 trains per day, at least an average of 1 to 2 collisions per year would occur if crossing gates and flashing lights were installed as Mascony proposes. However, there are currently no warning devices and, as will be discussed further below, there is considerable doubt as to whether they could be installed. The absence of signals would significantly increase the risk of collisions.

The FRA believes this prediction may understate the risk of collisions, because it is based on extrapolations

from historical data at a large number of crossings. The Sparyard Street crossing and Mascony's proposed use of it differ significantly from most grade crossings upon which this data is based. First, the Sparyard Street crossing is located in the middle of a sharp curve in the tracks which results in reduced visibility in both directions. There are also buildings and other physical objects which further restrict visibility, and the area is along water, which increases the risk of fog and haze. In addition, as the EIS discussed, the Corps of Engineers plans to construct a floodwall alongside the tracks in the near future. This wall would further restrict visibility along the tracks.

In addition to the reduced visibility, the character of Mascony's proposed service would create increased hazard. First, the proposed service would create several periods a day of extremely heavy traffic as each ferry loaded and unloaded. This traffic would be virtually bumper to bumper and could be expected to be stop and go or very slow due to congestion on the narrow New London streets for departing traffic and the need to ascend a ramp and board the ferry for boarding traffic. It should be noted that a second ramp will be added over the Corps of Engineers proposed floodwall which could slow traffic even more. There would thus be several periods a day of up to 100 cars and trucks slowly crossing the tracks bumper to bumper while train traffic approached in low visibility conditions. This slow traffic would greatly increase the risk of traffic

being stalled on the tracks due to congestion or mechanical breakdowns. Even with warning gates, this traffic could be trapped on the tracks.

The train traffic at this crossing would also be unusually concentrated because most of the trains will operate during the daytime and early evening, and there are multiple tracks.

A further risk of accidents would result from traffic trying to beat the gates to catch a ferry, or going around the gates. This type of action is unusually likely because the proximity of the New London station (less than 1500 feet north) and the volume of train traffic will result in frequent and lengthy gate closings. There is also a possibility of debris falling onto the tracks from crossing vehicles.

To summarize, there is an unusually high risk of collisions at the Sparyard crossing under Mascony's proposed operations.

These probable collisions will create serious environmental risks. First, Conrail carries hazardous materials on these tracks. Any collision thus raises the possibility of the release of these hazardous materials into the environment, particularly the river and the densely populated New London area. In addition to this risk, there is the significant risk of death or injury to Mascony's customers, and to the personnel and passengers of the Conrail and Amtrak trains that use these tracks.

A third inadequacy in the Commission's analysis is that it suggested that the risk of such collisions could be mitigated by the use of crossing gates and personnel along the tracks. As is demonstrated by the analysis above even with gates, there is still a significant risk of collisions. The Commission itself has realized that such gates are of limited value. In Prevention of Rail-Highway Grade Crossing Accidents Involving Railway Trains and Motor Vehicles, 322 ICC 1 (1964), the Commission stated:

While flashing signals, automatic gates, and other warning devices are extensively used, they are not considered positive restraining devices since experience has shown their effectiveness is limited. Id. at 10.

That report also recommended that at least 20 seconds warning is needed that a train is approaching a grade crossing. Id. at 79. Adequate warning would thus require warning personnel to stop traffic anytime a train was within approximately 1000 feet of the crossing, given a maximum train speed of 36 mph due to the sharp curve. It is not stated how the warning personnel will be able to obtain this much warning. The EIS thus proposes as adequate mitigation measures which are demonstrably and recognized inadequate.

Finally, although not related to the safety issue, the EIS did not consider the increase in air pollution and fuel consumption that will result as vehicles idle while waiting for trains to clear the tracks and for the

gates to open. Given the volume of train traffic, the closings are likely to be sufficient to cause a significant increase in idling times.

2. The Commission's decision that the projected 600,000 gallon fuel savings outweigh the potential safety and environmental costs is arbitrary and capricious because it is based on the balancing of an unreliable estimate of benefits against a risk which is not quantified in the record.

One of the basic requirements of due process and the Administrative Procedure Act is that the final decision not be arbitrary and capricious, i.e., that it be based on a rational, good faith evaluation of the evidence, and that sufficient weight be given to all factors. The Commission's balancing of safety and environmental costs and benefits does not satisfy this requirement. As discussed above, the Commission has failed to evaluate the safety risk sufficiently to allow any rational determination of the weight that should be attached to the risks.

The Commission has also attached an unreasonably heavy weight to a benefit which was explicitly stated to be unreliable. In its decision, Division I stated:

[T]he fuel savings from the proposed operation (projected to be as much as 600,000 gallons annually) could be significant and in our opinion on the whole outweigh the possible environmental damage that could result from the authorization of the proposed operation. 353 ICC 60, 70.

This strong reliance on the 600,000 gallon figure betrays a lack of awareness by Division I of the disclaimer of reliability attached to this figure by the EIS:

However, actual conditions impair the utility of this figure although the proposed service is likely to have a beneficial impact on energy consumption, it cannot be conclusively deemed significant . . . 353 ICC 60, 102.

In addition, DOT believes the methodology used to estimate the fuel savings significantly overstates the driving that is saved, and thus the fuel that would be conserved. It also appears that the EIS and the decision ignore the fuel consumption involved in 800 vehicles per day idling for long periods at Sparyard Street crossing while waiting for trains to pass. It thus appears that Division I may not have carefully reviewed the EIS, as it is required to do by NEPA. Any balancing of these factors is thus a matter of conjecture by the Commission which cannot be defended by reference to the record.

3. The Commission has improperly removed the burden of proof from Mascony on the issue of safety at the grade crossing.

One of the basic requirements of the Administrative Procedure Act is that the proponent of service bears the burden of proof. It should thus be incumbent on Mascony to produce proof of the safety of its proposed service. Mascony's only statement concerning safety has been that crossing gates will be installed, which, as will be discussed below, is misleading and potentially inaccurate, and, which in any event would not eliminate a serious safety hazard. Despite this failure to produce evidence that its proposed service will be safe, and despite the

evidence introduced by other parties that the service will be unsafe, the Commission has found for Mascony. In addition, the Commission has denied Amtrak's petition to introduce even more evidence of the safety hazard that will result from this service.

4. Division I's decision is contrary to the express policy of Congress that the Interstate Commerce Act be interpreted so as to promote safety.

In the National Transportation Policy which precedes Part I of the Interstate Commerce Act, Congress stated:

It is hereby declared to be the national transportation policy of the Congress . . . to promote safe . . . service.

In approving a manifestly unsafe service, Division I has acted contrary to this Congressional statement of policy.

5. Division I's decision is contrary to the express policy of the Commission that the risk of grade crossing accidents should be reduced whenever possible.

In Prevention of Rail-Highway Grade-Crossing Accidents Involving Railway Trains and Motor Vehicles, 322 ICC I (1964), the Commission stated in its recommendations that:

We are convinced, as a result of this investigation, that in order to achieve a substantial reduction in the human and economic waste attributed to grade-crossing accidents there must be an intensification and coordination by Federal, State, local, private and other groups and organizations responsible for traffic safety programs and enforcement of safety regulations, of all their efforts to improve the safety program, and to produce a substantially improved safety record at grade crossings as soon as possible. Id. at 87.

Division I's authorization of service which will create a substantial new safety hazard at a grade crossing does not comport with this policy.

6. Division I's decision is based on inaccurate, misleading and unsupported statements by Mascony concerning the installation of crossing gates and warning lights at the crossing.

Mascony states in its application that crossing gates and warning lights will be installed at the Sparyard Street crossing, and that these devices will be paid for by the Federal Highway Administration. This assertion is totally unsupported, and is highly misleading.

Section 322 of Title 23 of the United States Code provides for the mandatory closing of almost all grade crossings along the Northeast Corridor. The few exceptions were added by an amendment to that section in 1974, and are listed in the legislative history of the amendment (S. Rep. No. 93-1111 (93d Cong., 2d Sess.) at 18-19). One of the excepted crossings is the Sparyard Street crossing.

The amendment states that:

"The Secretary may permit selected individual public grade crossings of unusually low-potential hazard to remain at ground level, if they are provided with the best available protection."

As was discussed above, the service proposed by Mascony would create a significant safety hazard at that crossing, which could deny DOT any discretion to allow the crossing to remain open at ground level. The geography of the crossing precludes any separated crossing.

that would not be prohibitively expensive or pose unacceptable environmental impact. Authorizing Mascony's service may thus force DOT to close the Sparyard Street crossing entirely. That would deny New London access to that portion of its waterfront for any less intense use that poses a lower hazard and would effectively close Mascony's service.

Even if DOT were able to allow the crossing to remain open, Mascony is in effect assuming that DOT will use its discretionary authority to spend an estimated \$60,000 of public funds for equipment that will benefit a single private party and its customers.

III. Conclusion

DOT believes that the proposed service would create an unacceptable safety hazard at the Sparyard Street crossing, and could potentially force DOT to eliminate the crossing. DOT therefore strongly urges the Commission to reconsider its decision and to deny Mascony's application.

Respectfully submitted,

Raymond K. James
Chief Counsel
Federal Railroad Administration

August 1, 1977

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served, by first-class mail, postage prepaid, this 1st day of August, 1977 on the following:

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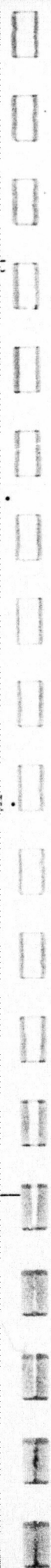
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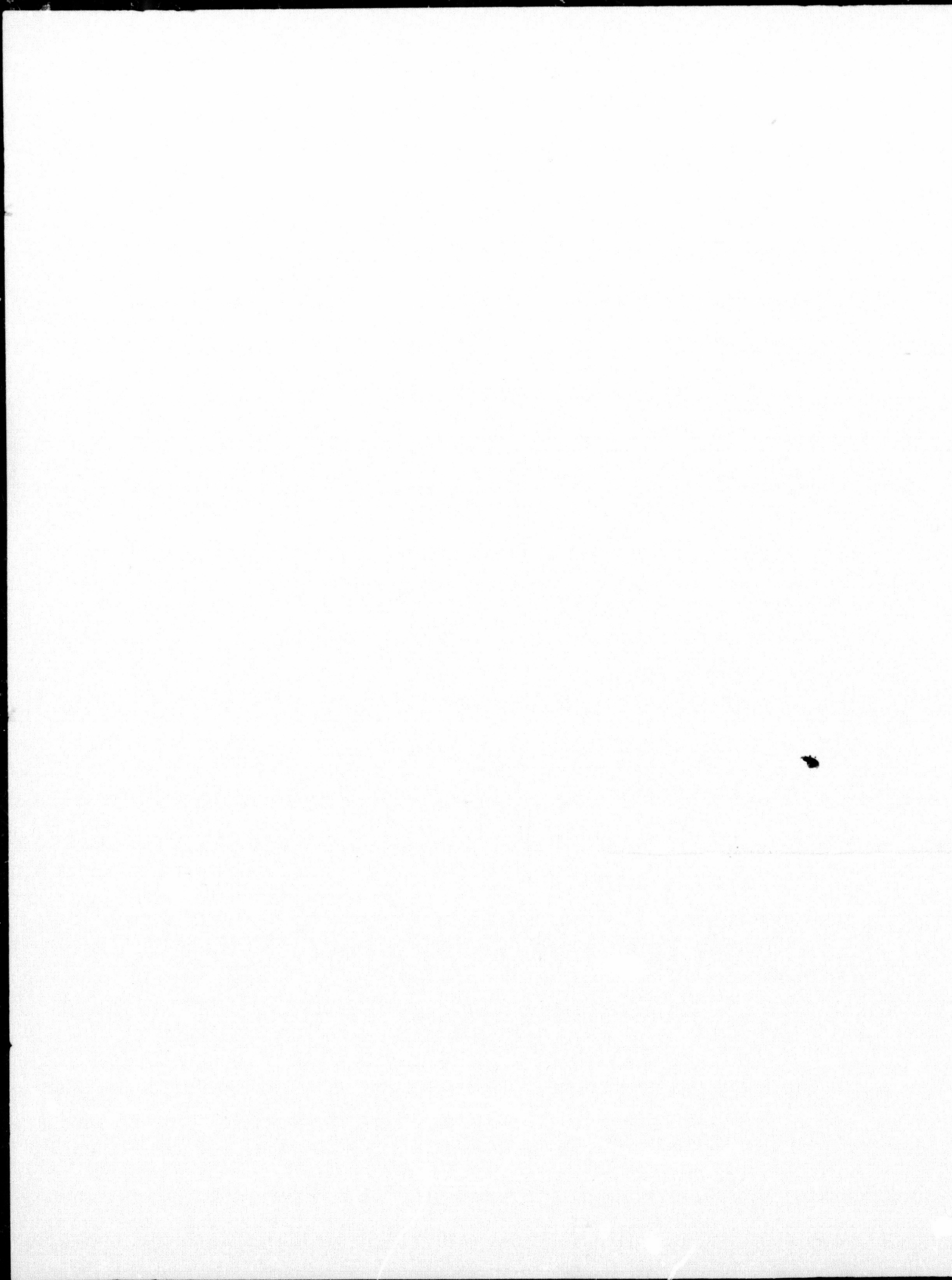
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1100 17th Street, N.W.
Washington, DC 20036

Robert M. Churella





DOCUMENT 393

BEFORE THE
INTERSTATE COMMERCE COMMISSION
IN THE MATTER OF
MASCONY TRANSPORT AND FERRY SERVICE, INC.
-INITIAL OPERATIONS-
NEW LONDON TO GREENPORT, L.I., NEW YORK

DOCKET NO. W-1270

APPLICANT'S MOTION TO STRIKE AND IN THE ALTERNATIVE
APPLICANT'S REPLY TO PROTESTANTS' PETITIONS FOR RECONSIDERATION

DUE DATE:

August 8, 1977

APPLICANT'S REPRESENTATIVES

Frank J. Weiner
Wesley S. Chused
15 Court Square
Boston, MA 02108

Attorneys for Applicant

BEFORE THE
INTERSTATE COMMERCE COMMISSION
IN THE MATTER OF
MASCONY TRANSPORT AND FERRY SERVICE, INC.
-INITIAL OPERATIONS-
NEW LONDON TO GREENPORT, L.I., NEW YORK

DOCKET NO. W-1270

APPLICANT'S MOTION TO STRIKE AND IN THE ALTERNATIVE
APPLICANT'S REPLY TO PROTESTANTS' PETITIONS FOR RECONSIDERATION

I

Now comes Mascony Transport and Ferry Service, Inc., hereafter referred to as applicant, and files this motion to strike the petitions for reconsideration filed by Cross-Sound Ferry Services, Inc. (Cross-Sound), Bridgeport & Port Jefferson Steamboat Company (BPJ), Village of Greenport (Greenport), Shelter Island & Greenport Ferry Company, Inc. (SIGF), Association of Businessmen of Greenport (ABG), Harry J. Mitchell and Pauline Mitchell (Mitchells), and National Railroad Passenger Corporation (Amtrak).

In support of its motion to strike all of the petitions for reconsideration filed by the parties named above, applicant submits that the decision of Division 1 dated June 14, 1977 (served June 16, 1977) was "administratively final". Rule 1100.101 (a) (2), "Administrative Finality of Division and

Employee Board Decisions," states that "All decisions, orders, or requirements of a division of the commission in any proceeding shall be considered administratively final, except those involving issues of general transportation importance, those wherein the division reverses, changes, or modifies a prior decision by a hearing officer, and those wherein the initial decision is made by a division."

The instant proceeding reveals that in an initial decision by an Administrative Law Judge, the application was denied. Subsequently, the Commission, Division 1, in its report printed at 353 I.C.C. 60, reversed the Administrative Law Judge and found "that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by water, of general commodities and passengers by self-propelled vessels, between New London, Conn., and Greenport, Long Island, N.Y.; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder; that a certificate authorizing such operations should be granted subject to the condition that it shall be limited, in point of time, to a period expiring 3 years from date of issue." (353 I.C.C. 60, 71-72).

Subsequently, the Commission, Division 1, Acting as an Appellate Division, by order dated April 5, 1977 (served April 8, 1977) upon consideration of the record reopened the record for the specific purpose of allowing applicant to

submit additional evidence and further allowed protestants and interveners to reply.

Thereafter, by order dated June 14, 1977 (served June 16, 1977), the Interstate Commerce Commission, Division 1, Acting as an Appellate Division, on further consideration affirmed its prior report in 353 I.C.C. 60 by finding on further consideration, "That the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier, by water, of general commodities and passengers by self-propelled vessels, between New London, Conn. and Greenport, Long Island, N.Y.; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder; that a certificate authorizing such operations should be granted subject to the condition that it shall be limited in point of time, to a period expiring 3 years from its date of issue."

It is therefore submitted that in this proceeding, the order of the Commission of June 14, 1977 (served June 16, 1977) was "administratively final" under the Commission's Rules of Practice, and in particular, Rule 1100.101 (a) (2).

None of the petitions for reconsideration were filed pursuant to Rule 1100.101 (b) and (c) nor do the contents of any of the petitions for reconsideration comply with Rule 1100.101 (b) and (c).

Of particular significance is the petition for reconsideration filed by Amtrak. The order on further con-

sideration dated June 14, 1977 (served June 16, 1977) specifically denied and rejected the prior attempts for intervention and submission of statements by Amtrak. It is therefore logical that the petition for reconsideration filed by Amtrak should be stricken, denied, and rejected.

II

REPLY TO PETITIONS FOR RECONSIDERATION

Without waiving its motions to strike the petitions for reconsideration as stated above, applicant submits its reply to the petitions for reconsideration.

Basically, the leading force in the filing of the petitions for reconsideration is Cross-Sound. The remaining protestants are riding the "coat tails" of Cross-Sound with certain modifications in their respective petitions for reconsideration.

Cross-Sound sets forth nothing new in its petition for reconsideration other than its attack upon the Commission for denying Amtrak the opportunity to intervene.

Throughout this proceeding it has certainly been obvious to the Commission and to all parties that Cross-Sound, acting in concert with the remaining protestants, has taken all steps to hamper, hinder, and delay the ultimate issuance of an order and certificate to applicant. Throughout this proceeding, Cross-Sound has been able to secure the intervention and filing of statements in opposition by various parties in the City of New London, Conn.

It is significant to note that Cross-Sound, at prior stages of this proceeding, attacked applicant's proposal to

utilize the Municipal Pier at New London, Conn. and was instrumental in securing the opposition of Albert S. Bicknell, Operator of the Fishers Island Ferry (Fishers) which filed a petition to intervene earlier in this proceeding.

With applicant's proposal to utilize the docking facilities at the Kellems Realty Corp. dock, Cross-Sound is now not in a position to attack applicant's proposed New London docking facility. Certain matters have taken place since the initial stages of this proceeding which foreclose Cross-Sound's attack on applicant's proposed New London, Conn. docking facilities.

The record in this proceeding shows that applicant had originally intended to utilize the so-called Denoia property. Cross-Sound and others attacked applicant's proposal on the grounds that rail grade crossings would be involved.

Subsequently, applicant was able to secure leases from the City of New London, Conn. wherein applicant was authorized to utilize the Municipal Pier. A rail grade crossing was also involved in conjunction with the use of the Municipal Pier. After the Commission's report in 353 I.C.C. 60 was issued, Cross-Sound was instrumental in securing the opposition of Fishers and the filing of a petition for reconsideration by Fishers.

In the interim, applicant's option to acquire the so-called Denoia property expired and Cross-Sound, through its affiliates in the Wronowski family (which controls Cross-Sound and other water carriers) entered into negotiations to acquire certain shore line property abutting the so-called Denoia property in attempt to foreclose applicant from ever

utilizing the shore line property in that area.

Notwithstanding the above, Cross-Sound in late 1975 commenced construction of a new ferry terminal in New London, Conn. without obtaining appropriate permits from the U.S. Army Corps of Engineers and the Connecticut Environmental Protection Agency.

In a recent notice to members of the public, Cross-Sound announced its plans to relocate its New London, Conn. terminal to Ferry Street in downtown New London. Attached hereto as Appendix "A" is a copy of the advertising data presented to the public by Cross-Sound. Cross-Sound however, failed to state that its proposed New London terminal is approximately three city blocks east of applicant's proposed ferry terminal at the Kellem Realty Corp. dock. Cross-Sound further failed to indicate to the members of the public, the Commission, all parties in this proceeding and Amtrak, that in order to gain access to Cross-Sound's new terminal facilities two rail grade crossings would have to be crossed, and one of the grade crossings is that grade crossing which was objected to previously by Cross-Sound and Fishers when applicant desired to use the Municipal Pier.

Since it is apparent that in order to gain access to Cross-Sound's new terminal facilities that two rail grade crossings are involved, Cross-Sound, in good conscience, could not attack applicant's proposal to utilize the Kellem Realty Corp. dock. Consequently, Cross-Sound prevailed upon Amtrak to "carry the ball" with respect to the rail grade crossing involved in connection with reaching the Kellem Realty

Corp. dock which applicant proposes to use at New London, Conn.

To supplement and bolster the argument attempted to be presented by Amtrak, other protestants such as Greenport and ABG, have advanced Amtrak's position.

The same railroad track that must be crossed to reach applicant's ferry terminal site, must also be crossed to reach Cross-Sound's new terminal site. None of the petitions for reconsideration treat this issue. If crossing of the same rail track can be used to gain access to Cross-Sound's terminal, then the crossing of the same rail track at another point can be used to gain access to applicant's terminal site.

BPJ's petition for reconsideration, wherein it adopts the position of Cross-Sound, sets forth nothing to justify a reversal of the Commission's order of June 14, 1977. Similarly, the Mitchell's petition merely requests incorporation by reference of its prior petition for reconsideration. In view of the fact that the prior Mitchell petition for reconsideration and reply thereto had been considered by the Commission, no useful purpose would be served at this time to submit a further reply thereto.

Collectively, protestants contend that they were denied due process by not being afforded an opportunity to appear at an oral hearing in connection with the final environmental impact statement.

In its order of October 17, 1975, the Commission reopened the proceeding and directed that an evaluation be made of the effect of the proposed operations on the environment in

accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). At 353 I.C.C. 60, 63, the Commission stated that applicant, as well as protestants and other interested parties, had been given a full opportunity to present any matters bearing on environmental effects in the course of the environmental review process, which matters were taken into account in preparation of the environmental impact statement contained in Appendix A to the decision in 353 I.C.C. 60.

It is difficult to comprehend the protestants' allegations that they have not been given an opportunity to participate in the environmental impact statement. While Greenport requests an oral hearing, the fact remains that such an oral hearing would constitute another reopening which is not justified and there is nothing to guarantee that Greenport will appear. As a matter of fact, Greenport failed to appear at the continued oral hearings held at Washington, D.C. in February, 1974.

The petitions for reconsideration are clearly frivolous and represent an overall collective and concerted attempt to foreclose applicant's proposed ferry service from becoming a reality. The parties in opposition continue to defy the Commission's statement at 353 I.C.C. 60, 71 wherein the Commission stated:

"If we find that a particular party has via unreasonable actions hindered good faith efforts by applicant to, in particular, operate in a manner which causes minimal environmental harm, we shall take such matters into account in determining whether to extend the certificate granted herein."

Neither is there any merit to the protestants' collective

accusations against the Commission of its not intelligently reviewing the prior petitions for reconsideration and reaching a decision long before the documents of the various parties were filed in the prior petitions for reconsideration.

Protestants seem to overlook that it is the applicant that has been patiently awaiting a decision for more than four years. The application was initially filed on May 29, 1973. More than four years have elapsed since the filing of the application, and in all fairness and equity, it would appear that applicant at this stage of the proceeding was and is entitled to a prompt decision.

Protestants' opposition represents selfish interests. Protestants collectively fail to understand that there exist today significant national goals and policies that require an agency's utmost attention and deference. Several of these national goals are directly affected and brought into play by the grant of the authority sought by applicant herein. Among these are (1) the national transportation policy and (2) energy conservation.

Under the national transportation policy it was declared to be the National Transportation Policy of Congress to provide for fair and impartial regulation of all modes of transportation subject to the provisions of the Act, so administered as to recognize and preserve the inherent advantages of each among others, all to the end of developing, coordinating, and preserving a national transportation system by water, highway, and rail, as well as other means, adequate to meet the needs of the commerce of the United

States, of the Postal Service, and of the national defense, and all of the provisions of the Act are to be administered and enforced with a view of carrying out Congress' declaration of policy.

The Commission as well as all parties are aware of the energy crisis currently existing. At 353 I.C.C. 60, 70, the Commission, in evaluating the environmental impact statement, concluded that the fuel savings from the proposed operation (projected to be as much as 600,000 gallons annually) could be significant and in its opinion, on the whole, outweigh the possible environmental damages that could result from authorization of the proposed operation, considering the apparent willingness of applicant to take steps necessary to minimize adverse environmental impacts. The fuel savings cannot be ignored in light of the current energy shortage existing in the United States.

III

CONCLUSION

WHEREFORE, applicant respectfully prays the Commission (1) find that the order on further consideration by Division 1, Acting as an Appellate Division, dated June 14, 1977 (served June 16, 1977) was "administratively final"; (2) that applicant's motion to strike the petitions for reconsideration filed by all parties herein including the rejection of Amtrak's petition be granted; (3) that in the alternative, in the event the Commission does not grant applicant's motion to strike and/or reject the petitions for reconsideration

including that of Amtrak, the Commission find that the petitions for reconsideration are without merit; and (4), that the Commission affirm its prior decision in granting applicant the authority sought and as reflected in the Commission's report in 353 I.C.C. 60 and its Order on Further Consideration of June 14, 1977.

Respectfully submitted:

Dated At:

15 Court Square
Boston, MA 02108

August 3, 1977

Frank J. Weiner
Wesley S. Chused

Attorneys for applicant

CERTIFICATE OF SERVICE

I hereby certify that I have this 3rd day of August, 1977, served a copy of the foregoing document upon all parties of record in this proceeding, by mailing, by first-class mail, a copy thereof, properly addressed to each.

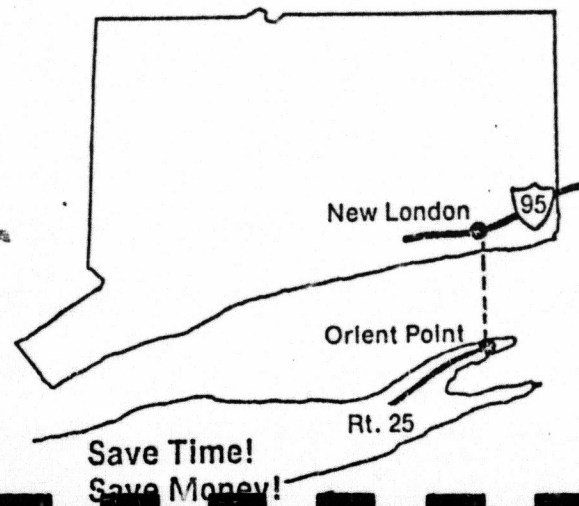
Frank J. Weiner

1977



ORIENT POINT NEW LONDON FERRY

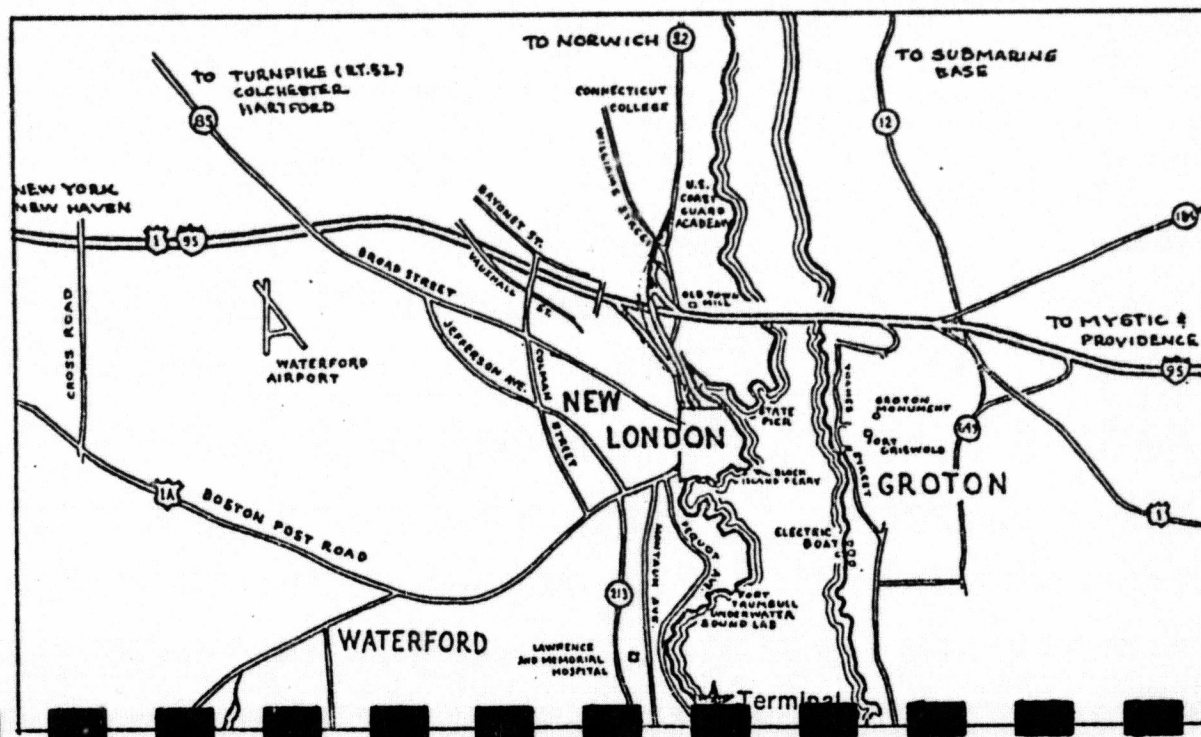
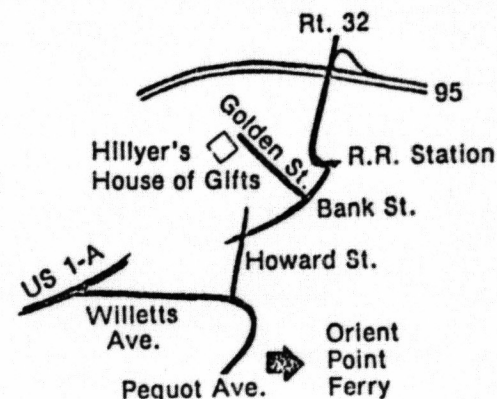
Year Round Service
Auto-Truck-Passengers
Combination Tours
Excursion Services



To Our Customers:
EFFECTIVE FALL 1977
Cross Sound Ferry plans to relocate its New London terminal from Pequot Avenue to Ferry Street in downtown New London. The new terminal will be approximately 300 yards north of the railroad station adjacent to the Block Island Ferry terminal. The new location will provide more direct access from I-95 and other major routes, centralize transportation facilities in New London, and provide ample water depth and docking facilities for our new vessels now under construction. The new facility will be completed and the move effective in the fall of 1977. There will not be any interruption of daily service during the move to our new terminal.

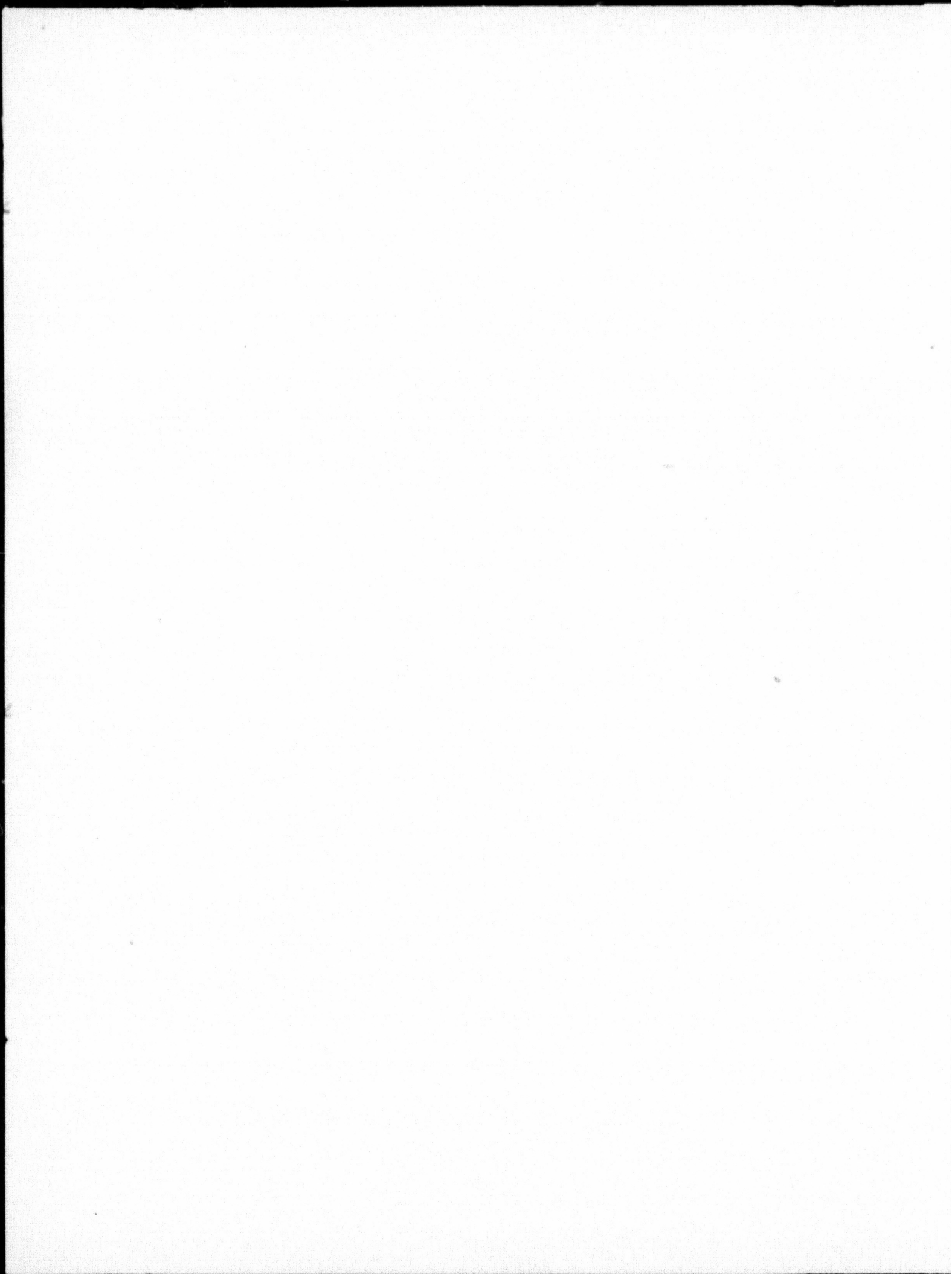
Map of New London

Heading south on 95: Exit for Downtown New London. Bear left to downtown New London. At 4th traffic light turn right onto Bank Street. At 1st light turn left onto Howard Street.
Heading north on 95: Take Exit #75, Waterford US 1-A. After 4½ miles take right fork onto Willetts Avenue. Go to end of Willetts Avenue, turn right.
Heading south on Rt. 52: Exit onto Rt. 32, go to the center of New London and turn right onto Bank St. At 1st light turn left onto Howard St.



APPENDIX "A"

DOCUMENT 394



BEFORE THE
INTERSTATE COMMERCE COMMISSION
IN THE MATTER OF
MASCONY TRANSPORT & FERRY SERVICE, INC.
- INITIAL OPERATIONS -
NEW LONDON TO GREENPORT, L.I., NEW YORK

DOCKET NO. W-1270

APPLICANT'S MOTION TO STRIKE AND REJECT
THE PETITION FOR LEAVE TO INTERVENE AND
IN THE ALTERNATIVE APPLICANT'S REPLY TO
PETITION FOR LEAVE TO INTERVENE FILED BY
THE UNITED STATES DEPARTMENT OF TRANSPORTATION

Applicant's Representative:

Frank J. Weiner
Wesley S. Chused
15 Court Square
Boston, MA 02108

Attorneys for Applicant

BEFORE THE
INTERSTATE COMMERCE COMMISSION
IN THE MATTER OF
MASCONY TRANSPORT & FERRY SERVICE, INC.
- INITIAL OPERATIONS -
NEW LONDON TO GREENPORT, L.I., NEW YORK

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THE PETITION FOR LEAVE TO INTERVENE AND
IN THE ALTERNATIVE APPLICANT'S REPLY TO
PETITION FOR LEAVE TO INTERVENE FILED BY
THE UNITED STATES DEPARTMENT OF TRANSPORTATION

I

Now comes Mascony Transport and Ferry Service, Inc.
hereafter referred to as applicant, and files this motion to
strike and reject the petition for leave to intervene filed
by the United States Department of Transportation hereafter
referred to as DOT and in the alternative, in the event the
Commission denies applicant's motion to strike and reject,
this reply thereto.

II

The petition filed by DOT is nothing more than a further
frivolous attempt by the opposing parties to this proceeding
in seeking all methods to hinder, hamper, and delay the

issuance of a certificate to applicant.

This proceeding has been pending before the Commission for more than 4 years. A report was served by the Commission on November 19, 1976 at 353 I.C.C. 60.

Upon petitions for reconsideration filed by those appearing in opposition during the earlier stages of the oral hearing in addition to several other parties filing petitions for leave to intervene, the Commission reopened the proceeding for a specific purpose on April 5, 1977.

In an order dated June 14, 1977 on further consideration, the Commission affirmed its prior report at 351 I.C.C. 60.

It should be noted that in its order of June 14, 1977 on further consideration, the Commission acknowledged that a petition for leave to intervene by National Railroad Passenger Corporation (Amtrak) filed June 7, 1977 had been filed, and in treating Amtrak's petition, found that no good or sufficient cause appeared for again to reopen the proceeding at this late date, and that the petition of Amtrak was rejected.

It is further apparent that the opposition has presented to DOT an incorrect interpretation of the record leading to DOT's petition for leave to intervene.

While DOT's petition for leave to intervene is designated as being filed under Rule 70, it is apparent that DOT is utilizing the "new" Rule 70. The application was filed prior to the "new" rules which became effective. It is applicant's position that a petition for leave to intervene should be treated under the "old" Rule 1100.72.

Whether the Commission utilizes the "new" Rule 70 or the "old" Rule 72, the fact remains that a petition for leave to intervene in any proceeding should be filed prior to or at the time the proceeding is called for hearing, but not after, except for good cause shown.

There is nothing within the petition for leave to intervene filed by DOT to show that there is good cause for reopening and a denial of the application.

In its prior report at 353 I.C.C. 60, 63-64, the Commission stated:

"However, the length of time already consumed by the proceeding must be given consideration. There comes a time when litigation must end and a decision on the merits must be rendered. This problem was alluded to by the Supreme Court when it stated in I.C.C. -v- New Jersey, 322 U.S. 503, 514 (1944):

'If upon the coming down of the order litigants might demand rehearings as a matter of law because some new circumstance has arisen, some new trend has been observed, or some new fact discovered, there would be little hope that the administrative process could ever be consummated in an order that would not be subject to reopening.'"

The Commission further, at 350 I.C.C. 60, 64, stated that the proceeding does not warrant a second reopening with further delay in the ultimate decision.

In its order dated June 14, 1977 on further consideration the Commission again stated that no good or sufficient cause appears for again reopening this proceeding at this late date.

Applicant submits that it is time for the Commission to issue, once and for all a decision in this proceeding. In a

prior pleading forwarded to the Commission on August 3, 1977, applicant submitted that the order of June 14, 1977 on further consideration was "administratively final" and applicant again submits that no petitions for reconsideration are allowed at this stage under the "old" Rule 101(a)(2) which governs the instant application.

Therefore, in view of the fact that DOT had ample opportunity to participate in this proceeding during the earlier stages, it is submitted that its petition for leave to intervene be rejected.

II

REPLY TO DOT'S PETITION

Without waiving its motion to strike and reject DOT's petition for leave to intervene, applicant must of necessity reply thereto.

Basically, DOT's attacks the Environmental Impact Statement as being inadequate.

On February 3, 1976, the Commission served a draft Environmental Impact Statement upon all parties to the proceeding and further requested comments from the Federal agencies of (1) Council on Environmental Quality, (2) Environmental Protection Agency, (3) Department of Transportation, (4) Department of Commerce, (5) Department of the Interior, (6) United States Coast Guard, (7) United States Army Corps of Engineers, (8) Federal Maritime Commission, (9) Federal Power Commission, (10) Energy Research and Development Administration, (11) Federal Energy Administration, and (12)

United States Railway Association.

In its notice served June 11, 1976, the Commission issued its final Environmental Impact Statement. It summarized the environmental impacts and also included the comments received from all parties including several federal and state agencies.

Noteworthy is the fact that the Department of Transportation did not file any comments on the draft Environmental Impact Statement.

It is therefore inconceivable that DOT should attack the Environmental Impact Statement at this time. It had in a prior opportunity to raise comments but failed to do so.

Had DOT adequately reviewed the record it would have found that with respect to the air pollution and fuel consumption impacts of vehicles, the United States Environmental Protection Agency, in its comment to the draft Environmental Impact Statement (See page 102 of Final Environmental Impact Statement) stated:

"Because the absolute effect of the ferry service upon traffic is small (approximately 100 cars per ferry ride, three to eight times a day), the air quality impact of the ferry upon an uncongested thoroughfare should be within acceptable limits.

In order to further limit unwarranted air pollution and fuel consumption, we recommend that unnecessary engine idling be prohibited while cars wait to board the ferries."

DOT fails to realize that a greater air pollution and fuel consumption impact exists by having vehicles travel 200 miles over the highways of Connecticut and New York.

In its further attack on the Commission's order, DOT

alleges that the safety at the grade crossing in New London, Conn. has not been properly considered. Applicant, in its proposal, specifically stated that it was aware that there was a railroad crossing involved and that it would have to be equipped with a signalling device. DOT, while stating that there is an attempt to provide closing of almost all grade crossings along the Northeast Corridor, acknowledges at page 12 of its petition that there are exceptions and one of the exceptions is the Sparyard Street crossing in New London, Connecticut which applicant proposes to use.

DOT agrees that the Secretary of Transportation may permit selected individual public grade crossings of unusually low-potential hazard to remain at ground level, if they are provided with the best available protection and it further recognizes that a closing of the grade crossing at Sparyard Street would deny New London, Conn. access to that portion of its waterfront which would render New London's shoreline property useless.

It is highly disturbing to applicant for DOT to take its current position without knowledge of all of the facts and those of record in this proceeding.

In applicant's earlier pleading, entitled Motion to Strike or in Alternative Reply Protestants' Petitions for Reconsideration, applicant submitted as Appendix "A" thereto, a notice distributed to the public by Cross-Sound Ferry Services, Inc., hereafter referred to as Cross-Sound, the leading protestant in this proceeding.

For the benefit of DOT, applicant submits another copy

of that document as Appendix "A" hereto, which reflects the change of site of Cross-Sound's ferry terminal. As indicated in the prior pleading and being indicated herein, Cross-Sound intends to move its ferry terminal to another location which would requires the crossing of railroad tracks at either of two railroad crossings involving the same tracks that are involved in the rail grade crossing at Sparyard Street.

It is discriminatory on the part of DOT to keep quiet and say absolutely nothing about the rail grade crossings that must be used to gain access to Cross-Sound's new ferry terminal and yet, in this proceeding voice opposition to the granting of a certificate to applicant on the basis of a "potential" safety hazard at Sparyard Street.

If a potential safety hazard exists in contemplation of applicant's proposed ferry service and proposed ferry terminal site the identical potential safety hazard exists in connection with Cross-Sound's "new" ferry terminal site, especially when one considers that Cross-Sound's "new" ferry terminal is approximately 3 city blocks east of applicant's proposed ferry terminal site.

The distinction lies in the fact that Cross-Sound presently has a certificate and can locate its ferry terminal anywhere without approval from the Interstate Commerce Commission. DOT, under its alleged powers, has not objected to the use of the rail grade crossing leading to Cross-Sound's terminal facilities. It is doubtful if DOT is aware of

Cross-Sound's proposal and further doubtful if DOT ever been informed of Cross-Sound's "new" ferry terminal site.

In all fairness, it would appear that what is good for Cross-Sound should certainly be good for applicant.

DOT failed to review the entire record and the prior reports of the Commission in this proceeding. In its report of November 3, 1976 (served November 19, 1976) at 353 I.C.C. 60, 70-71 the Commission stated:

"Applicant must determine where it will actually dock in Greenport, improve the landing point to allow its vehicle to dock, secure and improve suitable staging areas, comply with various local State and Federal regulations, and secure appropriate permits. We are in no position to comment on the merits of such applications for permits and our decision should not be interpreted as Commission support or lack of support for such applications. Should such permits be withheld and applicant be unable to locate a different site in Greenport or New London that would enable it to secure the required permits, then the proposed operation would in all likelihood never begin."

Thus, the Commission recognized that applicant must take other steps in order that its operation become a reality. Before such steps can be taken, applicant must of course secure a certificate from the Commission wherein the Commission has found that public convenience and necessity require the operation proposed.

Similarly, in its order of June 14, 1977 (served June 16, 1977) on further consideration, the Commission again recognized that additional steps must be taken before applicant's proposal can become a reality.

A Sheet 3 of its order on further consideration, the Commission in treating this matter stated as follows:

"It further appearing, That with respect to matters involving docking, staging, and loading as to which the record was reopened, the updated evidence of record shows that applicant still has various property right acquisitions to make or settle with finality, improvements to make, compliance with various local, State, and Federal regulations to achieve, and other governmental approvals to secure before it will be able to begin ferry operations; that, however, it still has active pending plans with respect to those matters; that the harbor site situations are largely unchanged from those of record at the time the prior report conditionally granted the application; that under the circumstances present in this case, involving numerous shore preparations subject to powers of control by other governmental entities and in attracting extensive local public interest, is not reasonable for this Commission to require that all such preparations actually be approved and carried out before a finding is made with respect to the Interstate Commerce Act the public convenience and necessity justifies granting the application."

DOT fails to understand that the Commission recognized that other steps must be taken and that such other preparations need not necessarily be approved prior to the Commission's finding that public convenience and necessity justifies and requires the granting of the application and certificate.

Thus, the 3-year limitation was imposed in order to give applicant an opportunity to continue its attempt to carry its proposal into fruition.

III

WHEREFORE, applicant respectfully prays that the Commission reject the petition for leave to intervene filed by DOT and in the alternative, in the event applicant's motion to strike and reject the DOT petition for leave to intervene is denied, the Commission find that the petition for leave to intervene

is without merit, and deny same; find that no further reopening of this proceeding is warranted; and find that the application be granted as stated in its prior report at 353 I.C.C. 60 and the order of June 14, 1977 on further consideration.

DATED AT:

15 Court Square
Boston, MA 02108

August 4, 1977

Respectfully submitted,

Frank J. Weiner

CERTIFICATE OF SERVICE

I hereby certify that I have this 14th day of August 1977 served a copy of the foregoing document upon all parties of record in this proceeding and DOT, by mailing, by first class mail, postage prepaid, a copy thereof, properly addressed to each.

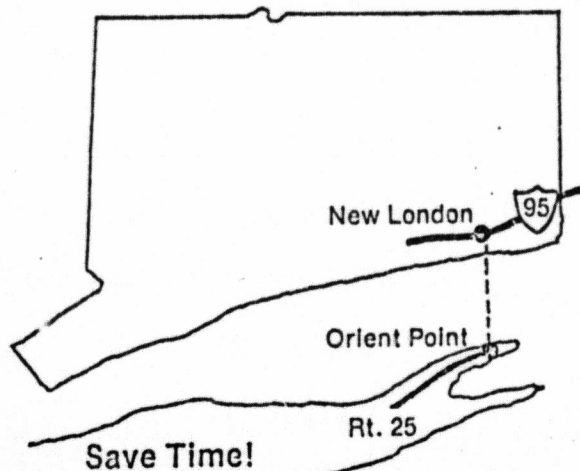
Frank J. Weiner

1977



ORIENT POINT NEW LONDON FERRY

Year Round Service
Auto-Truck-Passengers
Combination Tours
Excursion Services



To Our Customers:
EFFECTIVE FALL 1977

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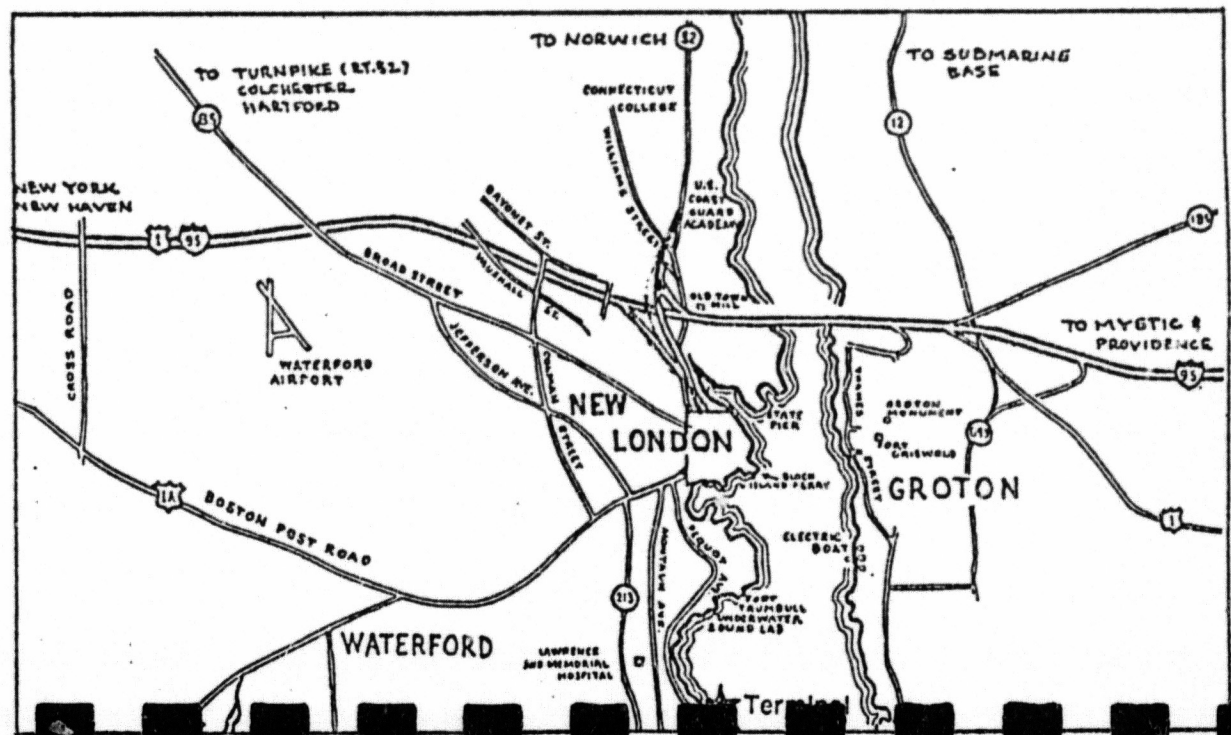
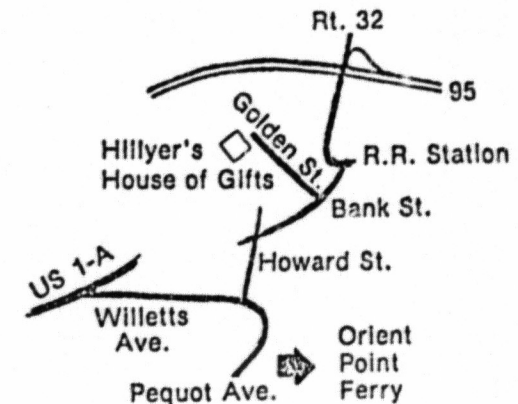
The new facility will be completed and the move effective in the fall of 1977. There will not be any interruption of daily service during the move to our new terminal.

Map of New London

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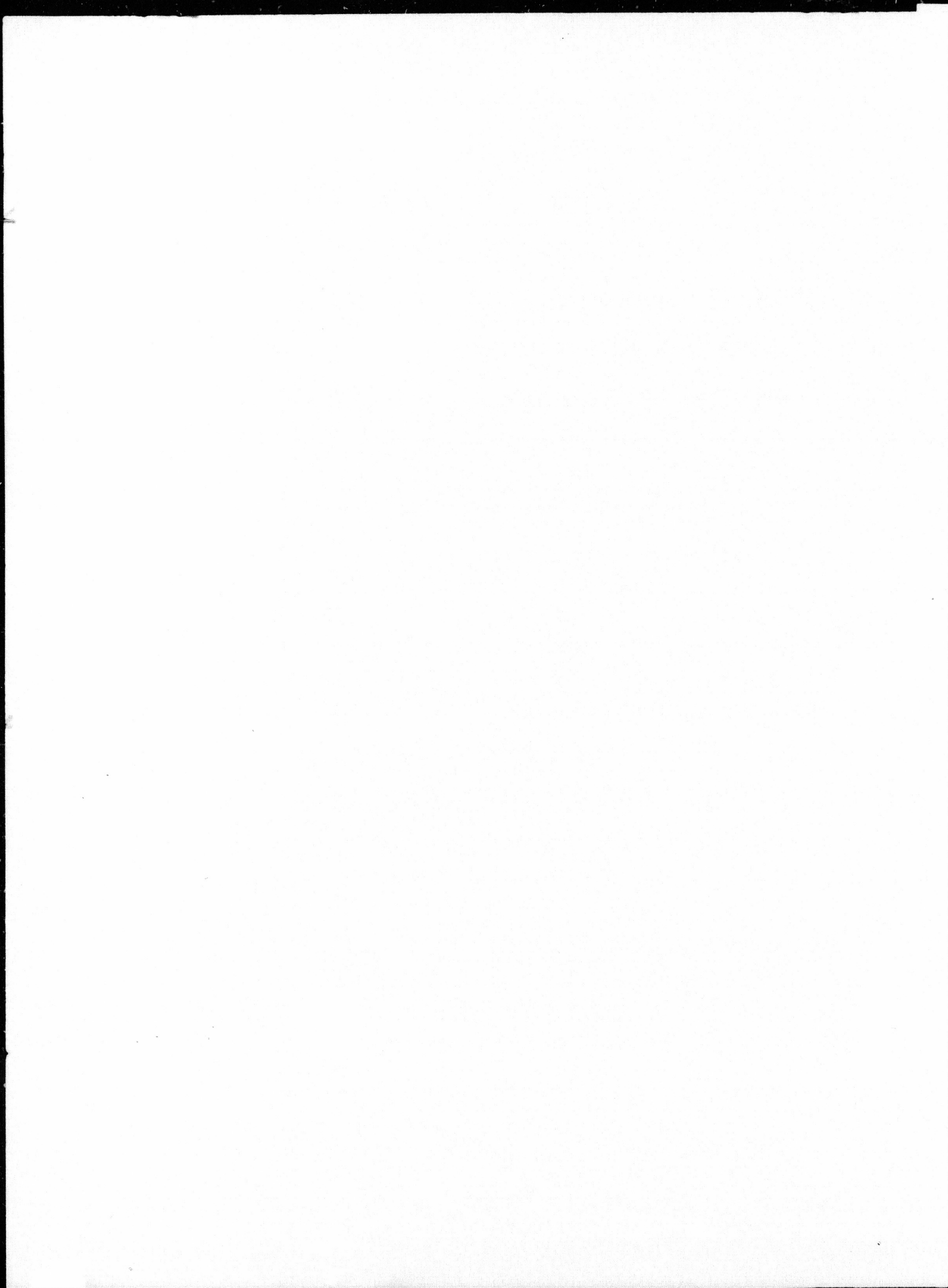
Heading south on Rt. 52: Exit onto Rt. 32, go to the center of New London and turn right onto Bank St. At 1st light turn left onto Howard St.



APPENDIX "A"

DOCUMENT 396





SERVICE DATE

ORDER

AUG 29 1977

At a Session of the INTERSTATE COMMERCE COMMISSION, Division 1,
Acting as an Appellate Division, held at its office in
Washington, D. C., on the 19th day of August, 1977.

No. W-1270

MASCONY TRANSPORT AND FERRY SERVICE, INC., INITIAL OPERATIONS -
NEW LONDON TO GREENPORT, L. I., NEW YORK
(New Bedford, Mass.)

Upon consideration of the record in the proceeding,
and of:

- (1) Petition of Cross-Sound Ferry Services, Inc.,
protestant, filed July 12, 1977, for recon-
sideration, embracing a request for oral
argument;
- (2) Petition of National Railroad Passenger Corpo-
ration (Amtrak), intervener, filed July 15,
1977, for reconsideration;
- (3) Petition of the Village of Greenport, intervener,
filed July 15, 1977, for reconsideration,
embracing, in the alternative, a request for
further hearing, and for oral argument;
- (4) Petition of the Association of Businessmen
of Greenport, intervener, filed July 18, 1977,
for reconsideration;
- (5) Petition of Shelter Island and Greenport Ferry
Company, Inc., intervener, filed July 18, 1977,
for reconsideration;
- (6) Petition (letter) of The Bridgeport and Port
Jefferson Steamboat Company, protestant, filed
July 18, 1977, in support of the petition in
(1), for reconsideration;
- (7) Petition (letter) of Harry J. Mitchell and
Pauline Mitchell, interveners, filed July 18,
1977, for reconsideration;
- (8) Petition of the United States Department of
Transportation, filed August 1, 1977, for
leave to intervene;
- (9) Petition of the United States Department of
Transportation, filed August 1, 1977, for
leave to submit a late-tendered document,
embracing a tendered petition for reconsideration;

- (10) Motion of applicant, filed August 5, 1977, to strike the petitions in (1) (2), (3), (4), (5), (6), and (7), or, in the alternative, reply to the petitions;
- (11) Motion of applicant, filed August 8, 1977, to strike the petition in (8), or, in the alternative reply to the petition;

and good cause appearing therefor:

It is ordered, That the motion in (10) is denied.

It is further ordered, That the petitions in (8) and (9) are denied for the reason that no sufficient or proper cause appears for permitting the United States Department of Transportation to intervene at this stage of the proceeding.

It is further ordered, That the motion in (11) is dismissed as moot.

It is further ordered, That the petitions and requests in (1), (2), (3), (4), (5), (6), and (7) are denied, for the reasons that the findings of Appellate Division 1 in its order on further consideration of June 14, 1977, are in accordance with the evidence and the applicable law, and that no sufficient or proper cause appears for reopening the proceeding for reconsideration, for further hearing, for oral argument, or for granting any of the relief sought.

It is further ordered, That if applicant does not comply with the requirements of Sections 306 and 315(a) of the Interstate Commerce Act within 90 days after the service date of this order, the grant of authority will be null and void and the application will stand denied in its entirety.

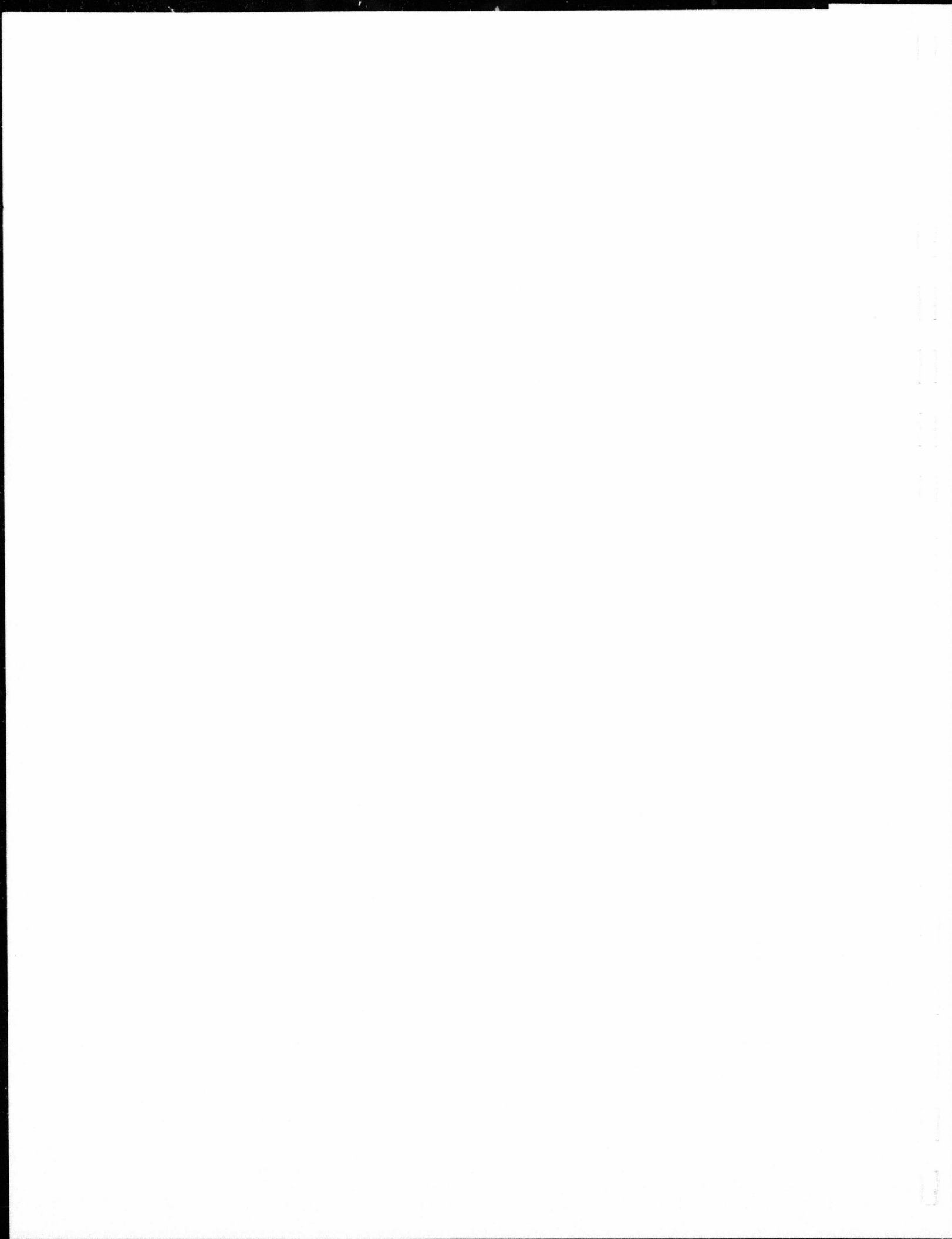
It is further ordered, That this order will be effective 15 days after its date of service.

By the Commission, Division 1, Acting as an Appellate Division, Commissioners Stafford, Gresham, and Christian. Commissioner Stafford would permit the Department of Transportation to intervene and submit a late-filed petition.

(SEAL)

H. G. HOMME, Jr.,
Acting Secretary.

NOTICE: By this order, this proceeding is rendered administratively final within the meaning of 49 CFR 1101.2(f) of the Commission's regulations; and, in accordance with the provisions of Section 558(c) of the Administrative Procedure Act, any corresponding temporary authority expires and operations thereunder must cease upon the effective date of this order, except that to the extent permanent authority is granted in this proceeding (and if partial, only to that extent) the corresponding temporary authority or portion thereof will continue in effect until a certificate or permit is issued and becomes effective. The filing of any further pleadings in this matter will not stay the expiration of the temporary authority related to the denied portion of the sought permanent authority.



DOCUMENT 397

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September 1, 1977

FILE IN DOCKET

Mr. Peter R. Reilly
355 L'Enfant Plaza North, S. W.
Washington, D. C. 20004

Dear Mr. Reilly:

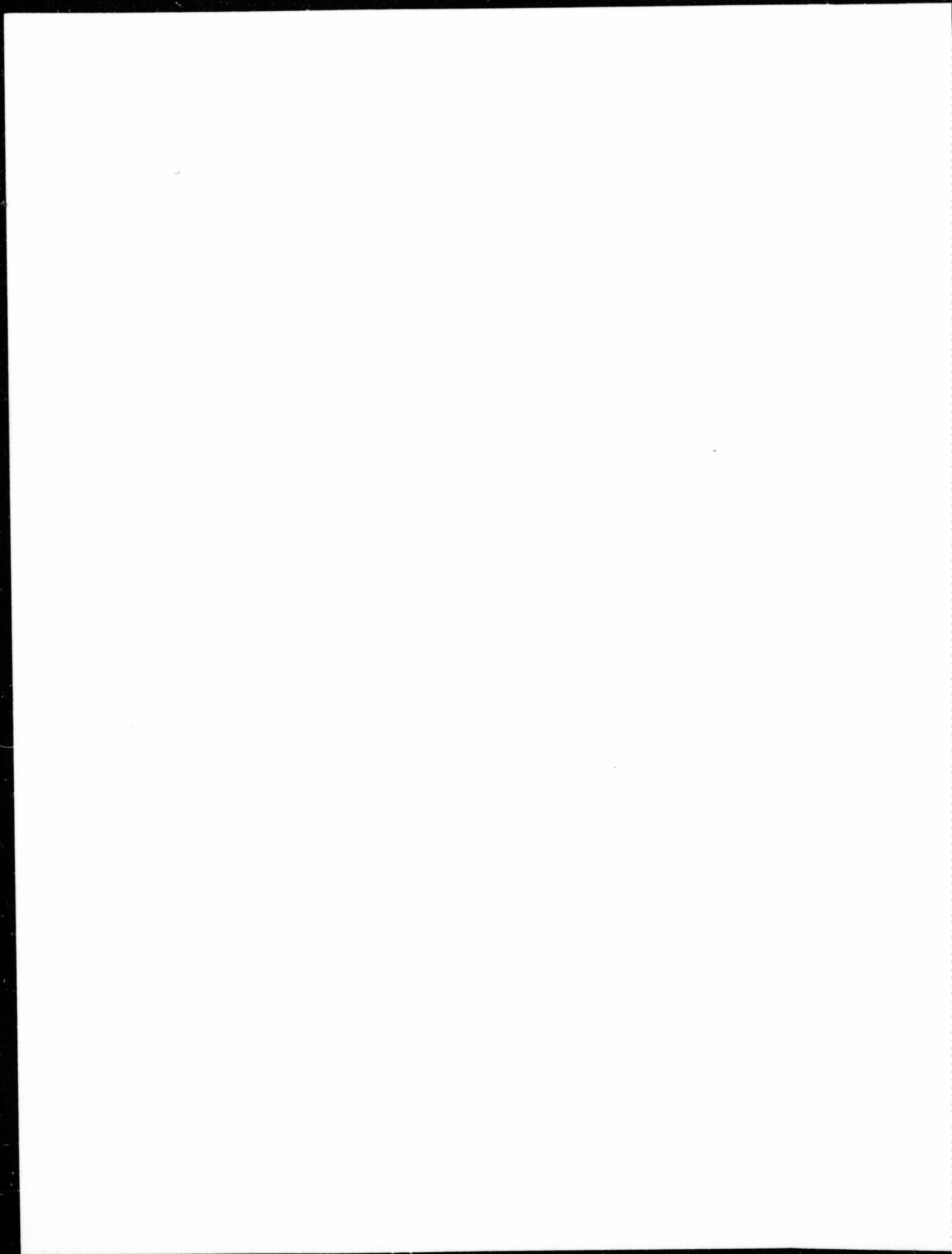
This has reference to the reply filed by you on August 26, 1977, on behalf of National Railroad Passenger Corporation, to the motion to strike petition for reconsideration, in Docket No. W-1270.

The pleading to which your reply is directed was disposed of by order of August 19, 1977, therefore, in the circumstances, no formal action will be taken with respect to your reply, and the original thereof will be filed in the correspondence section of the public docket.

Very truly yours,

Michael Erenberg
Assistant Deputy Director
Section of Operating Rights

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DOCUMENT 400

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LAW OFFICES
OF
FRANK J. WEINER
15 COURT SQUARE
BOSTON, MASS. 02108

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File in Dock
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WEINER
CHUSED

September 7, 1977

AREA
74:

Section of Insurance and Compliance
Interstate Commerce Commission
Washington, D.C. 20423

Re: Mascony Transport & Ferry Service, Inc.
Docket No. W-1270

Gentlemen:

The Commission's records will show that the above-named
water carrier applicant has complied with the appropriate
designation of agent filing.

Will you kindly notify the Section of Certificate and Captions
of that fact so that the certificate may be issued to the
carrier.

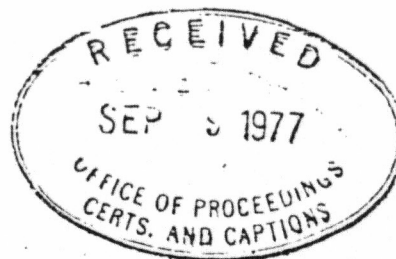
Very truly yours,

FJW:jll:7

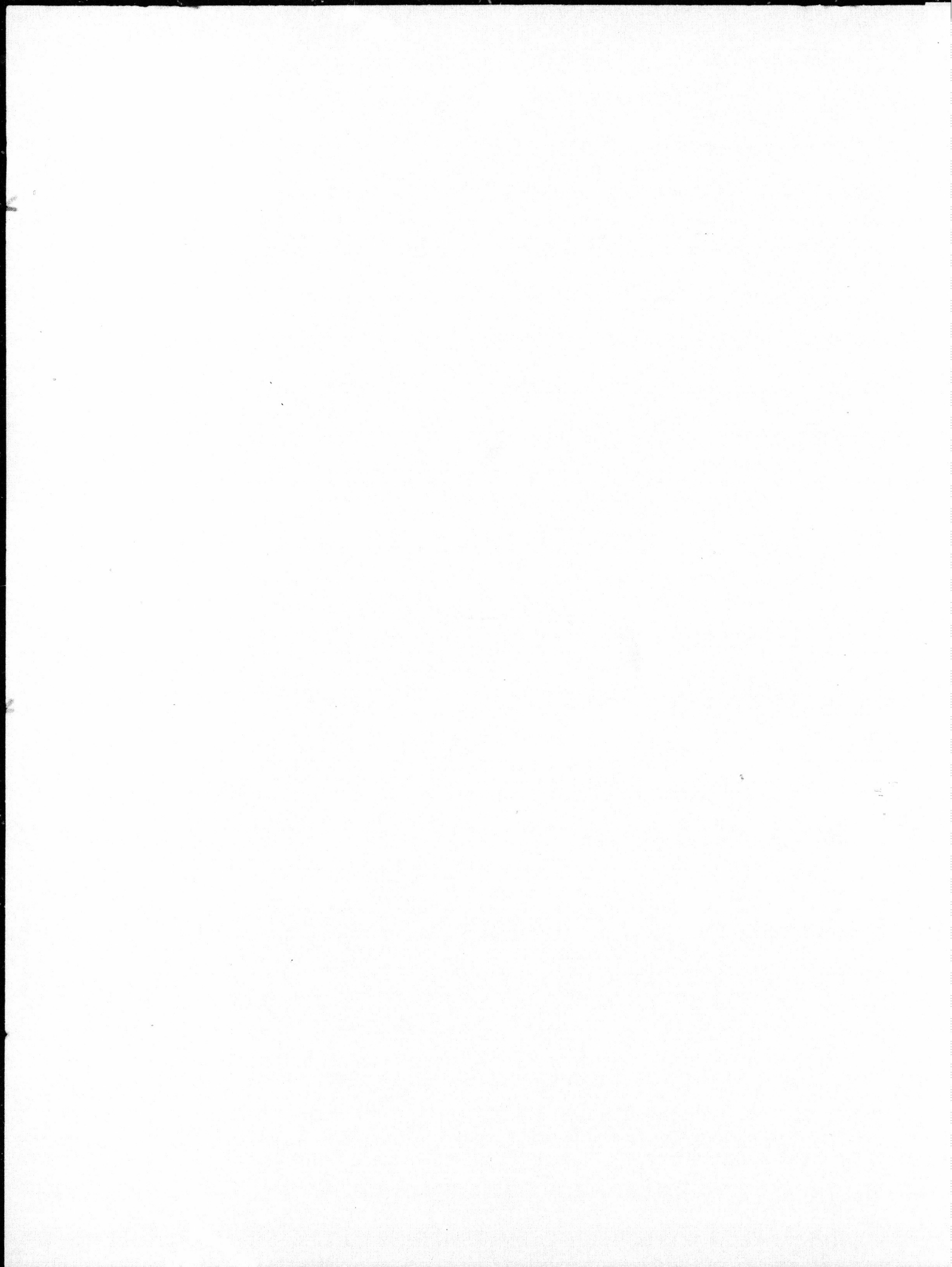
Frank J. Weiner

cc: Edith Roberts
Section of Certificates and Captions
Interstate Commerce Commission
Washington, D.C. 20423

Mascony Transport & Ferry Service, Inc.



DOCUMENT 403



SERVICE DATE

SEP 22 1977

ORDER

At a General Session of the INTERSTATE COMMERCE COMMISSION,
held at its office in Washington, D. C., on the 16th
day of September, 1977.

No. W-1270

MASCONY TRANSPORT AND FERRY SERVICE, INC., INITIAL OPERATIONS
NEW LONDON TO GREENPORT, L.I., NEW YORK
(New Bedford, Mass.)

Upon consideration of the record in this proceeding,
and of:

- (1) Petition of Cross-Sound Ferry Services, Inc.,
protestant, filed September 6, 1977, for
a determination and announcement that the
proceeding involves an issue of general
transportation importance;
- (2) Petition of National Railroad Passenger
Corporation (Amtrak), filed September 12,
1977, for a determination and announcement
that the proceeding involves an issue of
general transportation importance;

and good cause appearing therefor:

It is ordered, That the petitions are denied because
in the judgment of the Commission no issue of general
transportation importance is involved.

By the Commission. Chairman O'Neal and Commissioner
Brown voted to deny the GTI petitions but would reopen
the proceeding and accept and consider the petitions for
intervention and DOT's petition for reconsideration.
Commissioner Murphy voted to grant the petitions.

(SEAL)

H. G. HOMME, Jr.,
Acting Secretary.



DOCUMENT 404



INTERSTATE COMMERCE COMMISSION

SERVICE DATE

ORDER

SEP 22 1977

No. W-1270

MASCONY TRANSPORT AND FERRY SERVICE, INC., INITIAL
OPERATIONS - NEW LONDON TO GREENPORT, L.I., NEW YORK

PETITION FOR STAY PENDING JUDICIAL REVIEW

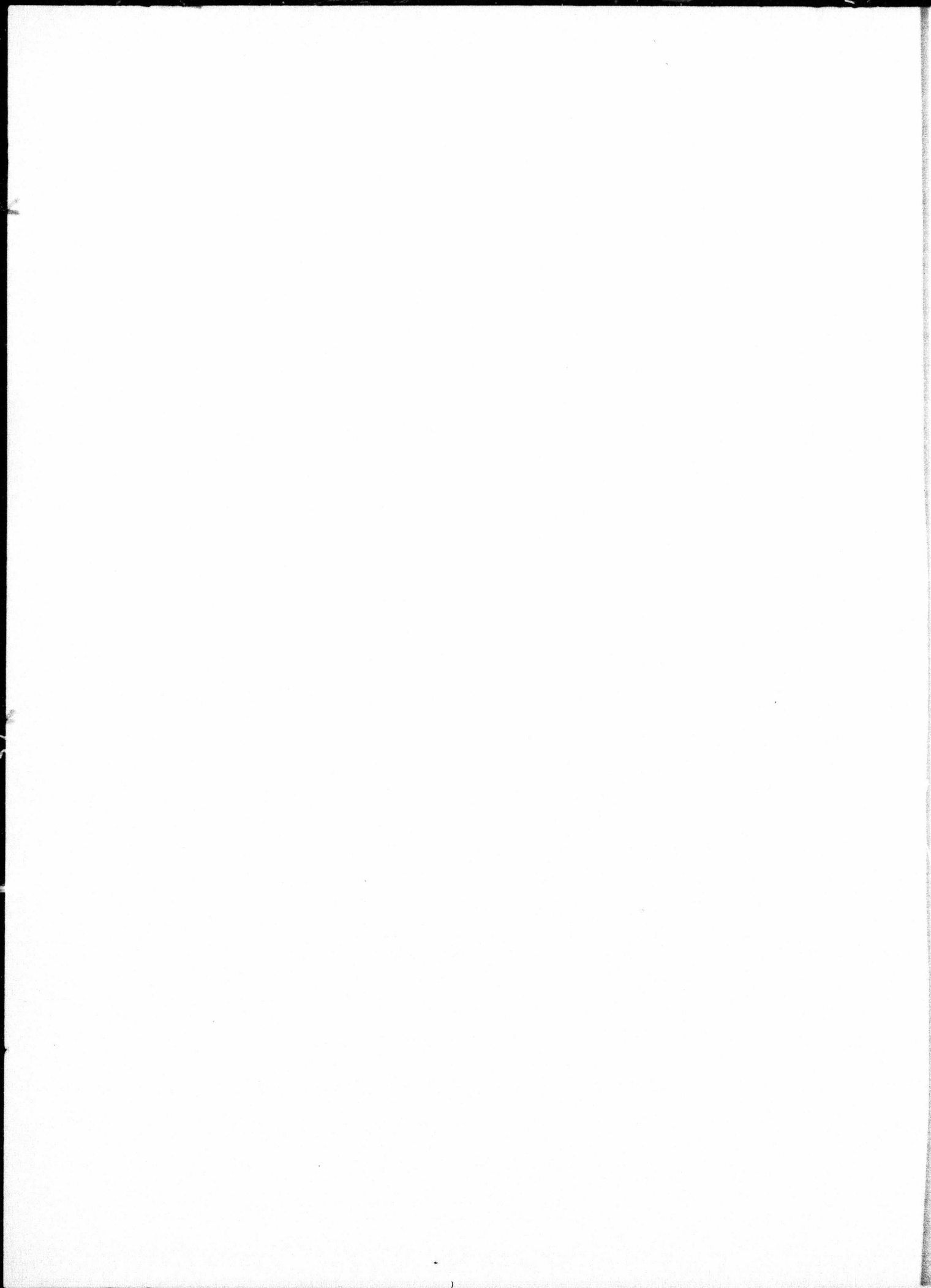
Cross-Sound Ferry Service, Inc. filed a petition to stay the effectiveness of the Commission's report and order served November 16, 1976 and its orders served April 8, 1977, June 16, 1977, and August 29, 1977, pending judicial review. Those orders grant Mascony Transport and Ferry Service, Inc. a three year term certificate to conduct operations in interstate or foreign commerce, as a common carrier by water, transporting general commodities and passengers by self-propelled vessels between New London, Conn. and Greenport, Long Island, N.Y.

Mascony's application, filed May 29, 1973, was supported by approximately 100 witnesses. They testified to the inadequacy of the nearest available ferry service operated between Orient Point, N.Y. and New London, Conn., by New London Freight Lines, Inc., the predecessor of Cross-Sound. As stated in the prior report, 353 I.C.C. 63, 68:

The testimony generally condemns such service because of (a) the long waits usually between 1 and 2 hours, but on occasion as long as 6 hours, (b) the difficulty in getting out of or into the car or truck after it has been loaded aboard the ferry and (c) the unsafe or unsanitary state of the vessel.

Mascony's proposal, which features year round operations and a space reservation system for fifty per cent of the vessel's capacity, will alleviate the long waiting periods and represents a significant improvement in service. These improvements may well lead to additional passengers, thus providing ample volume to maintain the services of both Mascony and Cross-Sound.

Cross-Sound argues that a denial of the stay will enable Mascony to divert a substantial amount of its marginal winter-time traffic, thereby jeopardizing its year round operations. It further argues that whatever public need exists for



the proposed service, that need greatly diminishes during the fall and winter months. Denial of the petition for stay, however, will not enable applicant to immediately institute service. It is recognized in the prior report at 353 I.C.C. 71 and in the June, 1977 Order at page 3, that many problems remain before Mascony will be in a position to begin operations. In addition to securing and improving landing docks and staging areas, Mascony must comply with various local, state and federal regulations, and secure appropriate permits. Thus, it is highly unlikely that Mascony will begin operations this winter or that Cross-Sound will suffer adverse effects from denial of the stay. On the other hand, denial of the stay will give Mascony an opportunity to continue its attempt to carry its proposal into fruition during the pendency of the court action.

In any event, Cross-Sound has no right to engage in water transportation without competition. As the Supreme stated in Bowman Transportation Company v. Arkansas-Best Freight System, Inc., 419 U.S. 281, 284 (1974):

A policy in favor of competition embodied in the laws has application in a variety of economic affairs. Even where Congress has chosen government regulation as the primary device for protecting the public interest, a policy of facilitating competitive market structure and performance is entitled to consideration. (citations omitted)

Here, the public convenience and necessity clearly require additional ferry service between New London, Connecticut and Greenport, L.I. Mascony has waited for four years to provide this service and its initial preparations should not be further delayed.

It is ordered, That the petition for stay pending judicial review is denied.

Decided September 20, 1977.

By the Commission, Chairman O'Neal.

H. G. HOMME, JR.
Acting Secretary

(SEAL)

EXCERPTS FROM

HEARING TRANSCRIPT



1 Q Is there a George Tinker on your list?

2 A Yes. I'm sorry. There is a Captain George Tinker who
3 right now holds a deep sea master's license. He has been in-
4 volved in marine industry for some 20-odd years, was a past
5 employee of Bridgeport and Port Jefferson Steamboat Company,
6 which is also, I understand, a company that is affiliated with
7 New London Freight Lines, Inc. That's it, counsel.

8 Q Now, getting back to yourself, Mr. Power, you stated
9 that you previously had been employed by New London Freight
10 Lines?

11 A That's correct.

12 Q Now, you started with New London Freight Lines at what
13 date?

14 A I started with New London Freight Lines in June -- latter
15 part of June 1971.

16 Q When did you terminate services with New London Freight
17 Lines?

18 A To finish altogether with them, it was approximately
19 October of 1972.

20 Q In the years that you were with New London Freight Lines,
21 Inc., did you have occasion to observe the operation of the
22 ferry service offered by New London Freight Lines between New
23 London and Orient Point, Long Island?

24 A Yes, I did.

25 Q Can you tell us what the reason for your leaving New

7676 NEW HAMPSHIRE AVENUE, SUITE 210 • LANGLEY PARK, MARYLAND 20783 • (301) 439-5600

1 London Freight Lines in the fall of 1972 was?

2 A In the fall of 1972, like every other year, they
3 terminate one crew because it's all based on seniority, so
4 the latter part of October, because of that union ruling, my-
5 self and the other members of junior crews were told that we
6 would be seen again the following year.

7 Q Can you tell us whether or not during your employment
8 with New London Freight Lines, Inc. you had an occasion to
9 observe the operations both at New London, Connecticut and
10 Orient Point, Long Island?

11 A Yes, I have.

12 Q Can you tell us what you personally observed during your
13 course of employment?

14 A Yes. In June --

15 . MR. GREENE: Your Honor, I am going to object to the
16 questions. I think the answer is obviously going to be a
17 statement as to this witness's certainly non-objective eval-
18 uation of the quality, capacity and adequacy of service
19 provided by New London Freight Lines. I don't think his
20 testimony on that point can have any probative value. He is
21 here as an operating witness and I think, if Applicant is
22 going to attempt to establish inadequacy of existing service,
23 the proper way to do it is by objective, non-biased shipper
24 witnesses, rather than by this Applicant's testimony as to
25 whether he thinks there is a need for his additional service.

1 JUDGE ALLARD: Perhaps you could rephrase the question?

2 Q (By Mr. Weiner) Could you tell us the circumstances, Mr.
3 Power, that led you to file this application?

4 A Yes.

5 MR. GREENE: Same objection.

6 JUDGE ALLARD: Objection overruled.

7 THE WITNESS: When I arrived at New London, Connecticut
8 in December of 1971 to be employed by New London Freight
9 Lines, Incorporated, the first thing I observed before depart-
10 ing on our first trip across the Sound was the facilities for
11 the passengers and different people that would be waiting to
12 either get their car on the ferry or what not.

13 I didn't think too much about it at New London, but then
14 when I got over to Long Island at Orient Point, I was very
15 amazed at the facilities that they didn't have over there,
16 at which time I proceeded to start thinking, you know, what
17 aggravation the people were being put through.

18 It wasn't until some two or three weeks later that I
19 realized just how much aggravation they were being put
20 through -- no place to sit down at these facilities, and one
21 ladies' room, one men's room, when they're handling over a
22 thousand people a day.

23 I just thought they were very inadequate. Of course, I
24 didn't think too much about it other than the fact that people
25 were put through what I thought was a great inconvenience.

1 They had no waiting rooms, no benches or chairs to sit down
2 on, and their waits in inclement weather -- they just ran for
3 the nearest tree, it would appear to me.

4 Q (By Mr. Weiner) Did you discuss this matter with anyone?

5 A Yes. I spoke to various other people in the crew that I
6 worked with and called to the attention of one of the captains
7 how I thought how ridiculous in this day and age that a com-
8 pany being the only means of transportation across the Sound
9 would have such inadequate facilities.

10 MR. GREENE: Your Honor, I want to renew my objection.
11 This characterization of the service as inadequate goes to
12 the ultimate issue in this proceeding, and I just don't think
13 it is appropriate for this to come in as sworn testimony
14 rather than argument in brief. It is not factual.

15 This is this witness's opinion, apparently. This is the
16 basis for his proposal here. He is really demonstrating a
17 state of mind that caused him to file this application.

18 JUDGE ALLARD: And it is no more than that.

19 MR. GREENE: I submit that it contributes nothing of
20 probative value to the record and only serves to prejudice
21 our position.

22 JUDGE ALLARD: In what way does it prejudice your
23 position?

24 MR. GREENE: Your Honor, it creates an impression that
25 our service is somehow inadequate. It does it in a manner

1 which we have great difficulty, if not impossibility, in re-
2 sponding to -- discussions that he had with other people
3 allegedly making comments to him or acquiesced in his view
4 and so forth. There is no way we can test this, rebut this.

5 MR. WEINER: Cross-examination, Mr. Greene.

6 JUDGE ALLARD: I think in the direct examination of this
7 witness, we ought to try and stick as much as possible to
8 objective facts. Actually, this witness's opinions and some
9 of his observations may be interesting, but totally irrelevant
10 and I think maybe we would move faster if we try as best we
11 can to stick to objective facts.

12 Q (By Mr. Weiner) After you made these observations and
13 you said you had spoken to someone regarding this, who was
14 that individual you spoke to?

15 A Captain Evans.

16 Q At that time, did you ascertain whether or not there
17 were certain vessels available?

18 A Well, this of course was in the summer of 1972. In 1971,
19 the U.S. Coast Guard had condemned one of their three vessels
20 that ran in the summer of 1971.

21 Q You say it condemned their vessels. Whose vessel?

22 A The United States Coast Guard condemned one of New
23 London Freight Line, Inc.'s vessels, the motor vessel Gay
24 Head. I know it didn't run the summer of 1972.

25 Q Fine. Continue on.

1 A I spoke to Captain Evans and I said, "Gee, with all this
2 backup of traffic, you think they'll do something?"

3 He said, "I've already talked to someone in the company"
4 -- he didn't name the official, that he thought the ferry
5 vessels running out of Delaware Bay were going up for sale or
6 they thought he should look into purchasing.

7 MR. GREENE: This is the most objectionable kind of
8 hearsay. This is double hearsay. We have this witness's
9 testimony as to what another person who is not here to be
10 cross-examined allegedly discussed with still other parties
11 who are not even identified in the record.

12 JUDGE ALLARD: Objection sustained.

13 Q (By Mr. Weiner) After you observed these matters, can
14 you tell us when you formed the opinion of forming a corpo-
15 ration or going into the ferry service business?

16 A Starting when we formed the corporation?

17 Q Yes.

18 A Well, when I was laid off because of lack of seniority
19 in the fall of '72, I decided that New London Freight Lines,
20 Incorporated apparently were not going to do anything about
21 it. They left one of their vessels tied up all the remainder
22 of that year. The vessel which didn't run that summer, 1972,
23 or the fall -- I decided then that there was a need, and I
24 went ahead and I looked into the possibilities of procuring a
25 ferry vessel which we have done.

1 I negotiated with the Delaware Bay Authority in November
2 of 1972 and after some agreement as to price and what not,
3 on January 10 of 1973 I received a letter from the Delaware
4 Bay Authority expressing their agreement to the terms and
5 that, if we were agreeable, sign the sales agreement for the
6 S.S. New Jersey, which we presently own, will be ours.

7 Q Mr. Power, in connection with the application you have
8 here, have you brought into this hearing room a map depicting
9 the area you intend to operate from and to?

10 A Yes, I have.

11 MR. WEINER: May that one-page document be marked for
12 identification?

13 JUDGE ALLARD: Yes. The map will be marked for identi-
14 fication as Exhibit 7.

15 (Whereupon, the document was marked
16 as Applicant's Exhibit No. 7,
for identification.)

17 Q (By Mr. Weiner) Now, similarly, Mr. Power, have you
18 brought into this hearing room another map which is a smaller
19 scale map reflecting the origin and destination and in-between
20 movements in relation to New England?

21 A Yes, I have.

22 MR. WEINER: May that New England part of New York map
23 also be marked for identification?

24 JUDGE ALLARD: It will be marked for identification as
25 Exhibit 8.

as Applicant's Exhibit No. 19,
for identification.)

Q (By Mr. Weiner) Did you enter into an agreement?

A Yes, we did.

Q With the Delaware River and Bay Authority?

A Yes.

Q Was that to purchase the vessel known as the S.S. New Jersey?

A That is correct.

Q Have you brought into this hearing room a copy of that agreement?

A Yes, I have.

Q Dated the 28th of March?

A Correct.

MR. WEINER: May that multi-page document entitled "Agreement of Sale" by and between the Delaware River and Bay Authority and Mass., Conn. & New York Services, Inc. be marked here?

JUDGE ALLARD: The agreement of sale just described by Applicant's counsel will be marked for identification as Exhibit 20.

(Whereupon, the document was marked as Applicant's Exhibit No. 20, for identification.)

Q (By Mr. Weiner) In Exhibit 20, is the purchase price of the S.S. New Jersey \$350,000?

A Yes.

1 Q Have you brought to this hearing room the vessel's
2 statistics?

3 A Yes, I have.

4 Q On the vessel S.S. New Jersey?

5 A Yes.

6 MR. WEINER: May this one-page document entitled "Vessel
7 Statistics" be marked for identification?

8 JUDGE ALLARD: It will be marked as Exhibit 23.

9 (Whereupon, the document was marked
10 as Applicant's Exhibit No. 23,
for identification.)

11 Q (By Mr. Weiner) Now, looking at the vessel statistics
12 of the S.S. New Jersey in Exhibit 23, can you point out where
13 you have the carrying capacity of that particular vessel?

14 A Yes. The licensed capacity of 800.

15 Q How many vehicles?

16 A 100 automobiles.

17 Q And the mixed load of motor vehicles, tractor trailers,
18 trucks?

19 A Well, assuming that we had ten tractor trailers, that
20 would be 70 automobiles and 10 tractor trailers.

21 Q You also mentioned that it is equipped with a dining
22 room and lunch counter. Can you describe that dining room and
23 lunch counter?

24 A Yes. These were built especially for a ferry service,
25 so needless to say, they are very well equipped. They have a

1 Q Bear with me until I move through these photographs.
2 Exhibit 23 indicates a speed of 16 knots, right?

3 A That's correct.

4 Q When you're making your projection, you assumed the
5 speed of 22 knots?

6 A I didn't assume. I know it will do 22 knots. I didn't
7 mean for the whole course; I came up with an average of 16
8 and know that we can make this trip in an hour and a half one
9 way.

10 Q Will you also know that the Delaware River and Bay
11 Authority never operated the vessel over 14 knots in regular
12 service?

13 A That's not true.

14 Q What is the basis for that statement?

15 A From people I've talked to down here, the port engineer
16 and port captain.

17 Q And they tell you that they operated the vessel at 22
18 knots?

19 A They have operated as high as 22 knots, correct.

20 Q This is in sustained operation in regular service?

21 A That is correct.

22 Q This was the normal operating speed for the vessel, 22
23 knots?

24 A I didn't say that. To keep their schedule, I imagine
25 for economy reasons, they cut them back. They were running

AFTERNOON SESSION

JUDGE ALLARD: The hearing will come to order.

Whereupon,

C. FRANCIS DRISCOLL

was duly sworn and testified as follows:

DIRECT EXAMINATION

Q (By Mr. Weiner) Will you state your name, please, and your address.

A C. Francis Driscoll, 959 Pequot Avenue, New London, Connecticut.

Q Mr. Driscoll, what is your occupation?

A I'm the city manager of New London.

Q How long have you been the city manager of New London, Connecticut?

A Four and a half years.

Q Can you briefly indicate your duties? I know you have many.

A Basically, I'm the chief executive officer of the City of New London and my principle duties are planning, organizing, staffing, directing, budgeting, et cetera, for the city.

I'm an employee of the City Council.

Q Mr. Driscoll, you are familiar with the proposed service that Mascony intends to offer with respect to a ferry service between New London and Greenport, Long Island?

A I attended a public hearing with regard to a special

1 permit requested by the petitioner and to that extent I am
2 familiar with what they propose to do.

3 Q Now, there has been some discussion regarding a certain
4 railroad track or railroad crossing. Are you familiar with
5 that particular aspect of the plan?

6 A I guess there is a private grade crossing at the DeNoia
7 property here and this is apparently a license that the pro-
8 perty owner has from the Penn Central Railroad. It is a
9 private crossing as opposed to a public crossing as we have
10 at Harlem Street and State Street, so yes, I am somewhat
11 familiar.

12 Q Has the City of New London taken any position with respect
13 to anything that has to be done or could be done in connection
14 with that particular crossing?

15 A Yes.

16 Q Tell us about it.

17 A About a year and a half ago the Penn Central requested
18 and this is somewhat of a long story -- that they be permitted
19 to put failsafe devices at their grade crossings at State
20 Street in lieu of the present manned crossings.

21 The City Council about a month ago approved this and
22 urged the railroad to go forward with this. They did this
23 after holding some meetings in Washington, D.C. with the U.S.
24 Department of Transportation.

25 The Federal Safety Act of, I believe, 1971 states that

1 in the northeast corridor between Boston and Washington, all
2 at grade railroad crossings shall be eliminated in the in-
3 terest of safety. Under that Act, the U.S. Transportation
4 Administrator has no discretion to except any at grade rail-
5 road crossings from that legislative edict.

6 When the city learned of this Highway Safety Act and the
7 implications of it as it relates to New London, where we have
8 approximately eight or nine grade crossings, as a city we
9 were very, very upset and enraged over the economic effect
10 this would have on our city if all of the at grade railroad
11 crossings were eliminated.

12 The State of Connecticut prepared a plan for implemen-
13 tation of the elimination of these grade crossings and what
14 they would do is in effect wipe out all of the value of real
15 estate south of State Street. We adopted a resolution. We
16 took a position. We appealed to the State of Connecticut
17 Department of Transportation and to the Governor and we also
18 appealed to the U.S. Department of Transportation through our
19 legislative representatives in Washington.

20 A meeting was arranged in Senator Ribicoff's office for
21 earlier this month and at that meeting was Governor Tyman, the
22 former governor of Nebraska, who is now the Federal Highway
23 Administrator, together with Representative Steele and
24 Senator Ribicoff. Senator Wyker was invited to attend the
25 meeting; he was a bit late. He did show up; the meeting was

1 just about to adjourn at that time.

2 The Federal Highway Administrator stated that he was
3 sympathetic to New London's position, which position was not
4 to eliminate our at grade railroad crossings, but to put in
5 failsafe mechanical mechanisms which would preclude a pedestrian
6 or vehicular traffic across the tracks when a train was
7 approaching or at the crossings.

8 The Federal Highway Administration was again sympathetic
9 to this, but they turned to our legislative representatives
10 and said that under the law, they have no discretion and must
11 eliminate all at grade railroad crossings, which is an expensive
12 proposition in this city, and, of course, elsewhere.

13 Our congressman, our senator, stated, "Would you be
14 receptive to some modifications of the legislation giving the
15 Federal Highway Administrator some discretion?"

16 The highway administration and federal transportation
17 people stated that they would like to have this discretion
18 cause the uniform application of that law did not make too
19 much sense in certain kinds of situations, and New London was
20 one of them.

21 Because of the topography, because of the track alignment,
22 they stood ready, number one, to support the legislation
23 for discretion and, two, if they received the discretion to
24 eliminate New London from having to participate in this program
25 of elimination of at grade rail crossings, so we are

1 hopeful, number one, that the legislation will be submitted
2 shortly, that it will be supported by both Houses of Congress
3 and enacted by the President.

4 Thereafter, we would hope that the Transportation people
5 would eliminate the City of New London from application under
6 the law and would permit the at grade rail crossings, but we
7 would also hope that just as Penn Central is installing at
8 State Street here some failsafe mechanisms, we would hope that
9 those who have licenses for at grade crossings would also be
10 required to put in the failsafe devices because we realize
11 that these crossings -- the trains go by at all hours of the
12 day and we also realize that whether we have a ferry service
13 or not here, it is probably not going to be manned on a 24-
14 hour basis, so we think this is important that we have this.

15 That is basically the extent of my knowledge with regard
16 to the at grade rail crossing situation and the current status
17 of it.

18 We have an agreement on the part of our legislators that
19 they will sponsor a bill. I am not quite sure whether it has
20 been proposed to Congress or not, but we have the assurance
21 from the Federal Highway Administration that they will
22 support this amendment and, two, if given the discretion, they
23 would act the way the city would like them to and that is not
24 to eliminate these crossings because in each and every in-
25 stance in New London, the crossings go nowhere and the water

1 is on the other side of it, so we don't consider it to be a
2 particularly great safety problem.

3 The failsafe mechanisms, we think, will do the trick.

4 Q You are familiar with respect to the application of
5 Mascony that it did require or seek some type of resolution
6 from the City of New London in connection with a variance?

7 A Mascony had made a proposal that they be given a special
8 permit for the land in the area of Sparyard Street that went
9 to the City Council. I think it received a favorable report
10 by our planning board and council on July 2nd unanimously
11 approved a resolution granting the special permit.

12 MR. WEINER: Thank you. I have no further questions.
13 You may cross-examine.

14 JUDGE ALLARD: Cross-examine, Mr. Greene?

15 MR. GREENE: Yes, sir.

16 CROSS-EXAMINATION

17 Q (By Mr. Greene) Mr. Driscoll, at your meeting in Wash-
18 ington, did you discuss with people present there the
19 exemption of existing public grade crossings or did you dis-
20 cuss the conversion of private grade crossings to public
21 grade crossings?

22 A We were talking about all grade crossings. A report was
23 prepared by the State. I think it bears a date of May some-
24 thing 1973, and it discusses both public and private crossin-
25 and enumerates -- I guess there were eight or nine of them;

1 crossing guards in lieu of mechanical devices, so apparently
2 over the reasonably long haul, the failsafe devices could be
3 amortized with salary savings.

4 Q They have crossing guards on duty there 24 hours a day?

5 A At State Street they do.

6 Q Does the City of New London have any position with respect
7 to this application? Are they supporting it or opposed to
8 it?

9 A Before the PUC?

10 Q No, before the Interstate Commerce Commission.

11 A I'm sorry, before the ICC? The city has taken no
12 formal position other the position that they approved the
13 special permit sought by Mascony. They have not been asked
14 to take a position otherwise.

15 Our redevelopment agency, I think, also has taken a
16 position in favor of it in that it would make a positive con-
17 tribution to the redevelopment of Shore Cove. We have a
18 Federal Urban Renewal Project in the Shore Cove area which is
19 just south of Sparyard Street here. In fact, part of the
20 property I believe -- I'm sorry, I think this is within the
21 Shore Cove Urban Renewal area and they look upon it with
22 favor; I know that.

23 Q I see. Is the redevelopment agency within your juris-
24 diction?

25 A I appoint the members of the agency, yes, subject to

1 council ratification.

2 Q Do you know whether they took into consideration in
3 their action in support of the application a potential impact
4 upon the existing ferry service?

5 A I wasn't present when they took the vote, so I really
6 couldn't comment on that.

7 Q The city itself merely, is it fair to characterize this
8 took a routine zoning action or land use action?

9 A Well, it's not as routine as, say, a -- it took a
10 specific legislative action after public hearing, so I would
11 think that the council was serious about this. It certainly
12 was not an action that they delegated to any administrator;
13 it was a legislative action and it was taken after public
14 hearing, which is, you know, if you wanted to escalate this
15 in terms of importance, most matters of most public signifi-
16 cance are matters that require public hearings first and then
17 did have a public hearing on it.

18 Q Thank you.

19 MR. GREENE: Thank you, your Honor.

20 JUDGE ALLARD: Redirect?

21 MR. WEINER: I have no redirect.

22 JUDGE ALLARD: The witness is excused. You may step
23 down.

24 (Witness excused.)

25 MR. WEINER: Mr. DeNoia?

1 MR. WEINER: Mr. Turk?

2 Whereupon,

3 ROBERT P. TURK

4 was duly sworn and testified as follows:

5 JUDGE ALLARD: Witness has been sworn; you may be
6 seated, sir.

7 DIRECT EXAMINATION

8 Q (By Mr. Weiner) Will you state your name, please,
9 and your address?

10 A Robert P. Turk, 184 Pequot Avenue, New London,
11 Connecticut.

12 Q And Mr. Turk, what is your occupation?

13 A I am the Executive Director of the Redevelopment Agency
14 of the City of New London.

15 Q And could you tell us how long you've had that position?

16 A Four years.

17 Q And are you familiar with the proposal of Mascony
18 Transport & Ferry Service?

19 A In general terms, yes.

20 Q And could you tell us what your particular position
21 is with respect to certain facilities or areas that are
22 under discussion or have been under discussion here in
23 connection with the Mascony terminal facilities?

24 A Yes. A portion of the property in question is located
25 in the Shaw Cove Urban Renewal Project.

1 The portion that is directly located within it is on
2 the New London side of the Penn Central right-of-way.
3 Some time back in June we received a communication from
4 the City Zoning Authority requesting the Agency's position
5 with regard to a request for special permitted use, a zoning
6 application from the ferry service.

7 This was considered by my Board of Commissioners and
8 they took an action or a vote on June 7 which recommended
9 that the Zoning Authority permit the service to begin
10 operations in New London as soon as possible. The Com-
11 missioners at that time felt that the service was badly
12 needed and could assist in the rejuvenation of the Bank
13 Street area which is the general area of the Shaw Cove
14 Project and also improve the economic marketability of
15 the land that we are creating or will be creating through
16 this Urban Renewal Project.

17 Q Now, could you tell us what your opinion is with
18 respect to the area being proposed to be used; the area
19 proposed to be used by Mascony, how it compares with the
20 existing area where the New London Freight Lines is located

21 A Well, the area of the De Noia property is located,
22 as I said, in a renewal project which, you know, ipso facto
23 means it is a blighted area at this time. The reason for
24 doing the renewal project is to bring this area physically
25 and economically -- to substantially upgrade it.

1 We feel that installation of this service which, from
2 the understanding we have of it such as the size of the
3 boats, the traffic that would be generated, would have a
4 strong economic spinoff for future development in the area
5 which we feel will result in good development for the city.

6 MR. WEINER: All right, I have no further questions.

7 JUDGE ALLARD: Mr. Greene, cross-examine?

8 MR. GREENE: Yes, sir.

9 CROSS-EXAMINATION

10 Q (By Mr. Greene) Mr. Turk, as I understand your testi-
11 mony, you said that the Board of Commissioners voted or
12 recommended favorable action by the Zoning Board on the
13 grounds that, one, the proposed ferry operation on the
14 De Noia property would have favorable economic impact on
15 the town; and, secondly, that the service was badly needed;
16 is that correct?

17 A That's correct.

18 Q I see. What economic analysis or study did the Com-
19 missioners make to determine that the service is badly
20 needed?

21 A The Commissioners did not make a specific economic
22 study comparing one service with the existing service.
23 Our studies relate purely to the project area itself and
24 the overall economic situation in the City of New London.

25 We weren't in a position -- and we wouldn't want to be

1 in a position -- of saying that one service should displace
2 another service. What we are saying is that we have a
3 badly physically blighted area, economically blighted,
4 which we are going to be bringing up to a very different
5 level of quality for the city.

6 The impact of this particular ferry service that it
7 would seem to offer from our general understanding of it
8 is beneficial for the city.

9 Q I see. This would include transportation of trailer
10 trucks and tractors and so forth through the downtown area?

11 A Well, yes. Specifically, I don't really know what
12 the ratio is between freight and passengers, what that is
13 going to be. But certainly, the passenger side of it is
14 most attractive.

15 I might also add that a significant portion of the
16 land that is going to be made available by our renewal
17 project is designed for light industrial use, so I would
18 say that there would be some benefit from that as well.

19 Q I see. But, you made no study to determine any po-
20 tential impact in terms of traffic congestion or sales of
21 local merchants or anything like that?

22 A Well, our studies that we made while developing
23 this project occurred before the introduction of the
24 knowledge of the Mascony proposal. However, the city does
25 have a master traffic plan which was approved in 1967.

1 If you will recall, when Mr. Michalowski testified,
2 he said a lot of that planning has been implemented and
3 has become reality. The kind of traffic volumes that had
4 been projected by a computerized study done by the Department
5 of Transportation which serves as the basis for our traffic
6 planning also served for the basis of our Urban Renewal
7 Project throughout the Shaw Cove area and will integrate
8 with the work now being done.

9 We feel the roads will adequately take care of the
10 projected traffic. We've weighed this against the need
11 that our planning and our engineering consultants use to
12 determine our proper rights-of-way, traffic signalling
13 systems and so forth and these were all used in developing
14 the plans for the project itself.

15 We assessed that against the degree of light industrial
16 development we expect in the project and it seems to us
17 pretty sure that we've provided for that.

18 Q I see. Now, did you make any determination as to
19 potential ferry traffic as a basis for your statement to
20 the Zoning Board that there was a need for that proposed
21 service?

22 A Yes. Let me answer it this way: This is going from
23 memory, now. The nature of the proposal, the size of the
24 vessel, the car-truck capacity, passenger capacities, were
25 published in a newspaper article in the local New London Day.

1 Maybe I'm drifting away from your question; could
2 you be more specific?

3 Q My question is: Did you come up with an estimated
4 traffic load per day, per week and look at what the present
5 service handles and determine that there was more than
6 sufficient traffic to keep both services operating?

7 A No, I'm not in the position to -- I'm not the ICC,
8 you know. I'm not a transportation expert, so I can't --

9 Q You stated that there was some statement made about
10 need for service. I'm trying to find out what considerations
11 went into that statement.

12 A I think need for service was based on a general appre-
13 ciation of the problems that the people seem to be having
14 with regard to travel between Orient Point and New London
15 because of seeming inadequacies in the present service.

16 The existence of larger capacity of service benefits
17 not only New Londoners but acts to help us achieve one of
18 our general goals in the city, which is an increase in
19 tourism. This is something we're trying to implement through
20 both of our Renewal Projects.

21 Q I see. Do you think the position of your Commission
22 would be the same if the record before this Commission
23 eventually demonstrates that it's not financially feasible
24 to provide two ferry services between Eastern Long Island
25 and New London?

1 A This is a question that has never been formally
2 raised to my Board of Commissioners. I don't believe
3 they would feel comfortable put in a position of having to
4 compare or having to sort of make a Solomon's Judgment,
5 you know, that this will live and this will die; that's
6 not their goal.

7 Q I see. They haven't made any such judgment?

8 A No, they have not.

9 Q Your purpose for testifying here is not to indicate
10 preference for one service over another?

11 A Well, I didn't come here with the thought in mind
12 of stating a preference for one service over another. I
13 came here because of the impact that this particular service
14 seems to have on the community's objectives in the Shaw
15 Cove Urban Renewal Project.

16 This impact seems very positive for the community and
17 for the securing of a very important goal in the project --
18 it is a \$20 million project. The City has a lot of time
19 and money invested in it.

20 Q The Shaw Cove Renewal Project in its totality is a
21 \$20 million project?

22 A Yes, maybe a little more than that.

23 MR. GREENE: That's all I have; thank you.

24 JUDGE ALLARD: Redirect?

25 MR. WEINER: Nothing further.

1 Otherwise, you have to drive around and by the time you
2 get in Boston, you're all played out, so you're not in any
3 shape to come back here the next day and try to make a boat,
4 so you lay over and lose a day.

5 If you can get on the ferry and run right back and forth
6 you can make money.

7 Q How many miles, road miles, would you be saving or do
8 you save by using the ferry as contrasted to running around
9 the horn through New York, one way?

10 A From where I load in Long Island to Boston is 162 miles
11 further.

12 Q Road mileage?

13 A Road mileage.

14 Q And would the use of a ferry allow you to still drive
15 and be within the Department of Transportation hours of
16 service?

17 A Oh, yes.

18 Q And if you have to drive around the horn, do you find
19 frequently when you have to do that as a result of being
20 unable to get on the ferry that you do go over the required
21 number of driving hours?

22 A Yes, you would, if you kept on driving.

23 Q Would you use the service that is being proposed by
24 Mascony with respect to the service between New London and
25 Greenport?

1 A Yes, sir.

2 Q Mileage-wise, what would you say the number of miles
3 would be from Orient Point to New London, Connecticut by
4 automobile?

5 A I would say about -- I'm not sure. 150 to 200 miles.

6 Q In your own automobile, how many gallons of gas would
7 you have saved or been able to save if you can use the
8 ferry going across the Sound?

9 A I would say 15 to 20 gallons.

10 Q That's each way?

11 A That's right.

12 Q If this particular proposal of Mascony is approved,
13 would you utilize that ferry service that Mascony intends
14 to offer?

15 A We certainly would.

16 Q Could you tell us why?

17 A Because the improved service is badly needed. In
18 spite of all the problems, service-wise, I'm traveling
19 with the present Orient to New London ferry, I think it's
20 a very hazardous kind of boat, in spite of the approval of
21 the Coast Guard. I think the fire hazard is tremendous
22 and I believe that's about sufficient.

23 Q Could you tell us what you mean by the fire hazard?

24 A If you have ever traveled on that ferry you know that
25 there is a wide open space where all the cars are parked

1 Point end so that I now do not attempt to go that way if I
2 am heading for Boston; I drive around the bridge. I have
3 had less difficulty at New London.

4 The most recent effort was on November 20th, which wa
5 Tuesday, not Friday, and I arrived about a half hour befor
6 the last boat was due to leave but it was full, which is
7 fairly routine occurrence for me.

8 Q In the past could you give us any specific examples o
9 the difficulties you have had with respect to other than
10 being unable to get on?

11 A My main concern is being assured a place on the boat.
12 The present boats, obviously, have no creature comforts on
13 them. They are very crowded, very uncomfortable seating.
14 I'm really less concerned about that than the reliability
15 of the service. If we drive from Stoney Brook to Orient
16 Point and we don't get aboard, we have wasted an hour and
17 a half, two hours driving back and another couple around
18 to get to the point we started from.

19 Q Do you also waste fuel?

20 A Yes.

21 Q If the proposal offered by Mascony is offered, will
22 you utilize that ferry service?

23 A Yes, I would use it.

24 Q Will you tell us in your own words why you would
25 utilize that service?

1 Q You sit in the vehicle itself?

2 A Yes. Not always, but sometimes I do.

3 Q If the ferry service offered by Mascony is granted
4 by the Interstate Commerce Commission, will you utilize
5 that ferry service?

6 A Yes.

7 Q Tell us why.

8 A I also have been over on those big ferries and they
9 take many more cars. So one wouldn't have to wait so long.
10 Of course they are comfortable. After waiting six hours,
11 you have to have some refreshments. On these ferries they
12 don't always have them. When they do, it's not very clean.

13 Q To what points on the other side of the Sound have you
14 had to go visit your sister?

15 A Norwich, Connecticut.

16 Q Norwich, Connecticut is --

17 A It's about 15 miles inland from New London.

18 Q Could you estimate the number of miles that you would
19 be saving in driving if you had this ferry service versus
20 driving around?

21 A About 250 miles at least.

22 Q One way?

23 A No -- yes, one way. That's true.

24 Q In view of our energy crisis, would you estimate how
25 many gallons of gas you would be saving on one trip?

1 A I'd save about 12 gallons on my little car.

2 Q Or 24 gallons on a round trip?

3 A Yes, I think so.

4 Mr. Weiner: Thank you very much.

5 Judge Allard: Mr. Greene, you may cross-examine.

6 CROSS-EXAMINATION

7 Q (By Mr. Greene) Ms. Reilly, do I understand that you
8 have been using the ferry ten times per year for eleven
9 years?

10 A Yes.

11 Q These ten trips per year, are they generally in the
12 summertime or all year round?

13 A I just came back a week ago.

14 Q What day did you go up to Connecticut?

15 A This last time?

16 Q Yes.

17 A A few days before Thanksgiving. I was there for ten
18 days.

19 Q What day of the week did you travel up?

20 A I think I went on a Monday.

21 Q When did you come back, what day of the week?

22 A Thursday.

23 Q Did you have any difficulty on either of those trips?

24 A No, not that way. One of the trips before then was
25 that awful windstorm and the ferry I thought was going to

1 Q From your own personal knowledge, do you know if they
2 have had experiences similar to yours of going from New
3 London to Orient Point after driving from Hartford,
4 Connecticut?

5 A The only real thing that they have talked about was
6 the length of wait that they had. They said they wouldn't
7 do it.

8 Q Why don't they drive now from Hartford down to Sag
9 Harbor?

10 A You mean around New York?

11 Q Yes.

12 A That's an awful distance, you know.

13 Q How far?

14 A I don't know how far it is, but it must be at least,
15 what? You go to Hartford from New York, 300 miles, would
16 that be too much?

17 Q No. By this ferry you would save a 300 mile haul
18 distance?

19 A Yes.

20 Q The distance from New London to Hartford is slightly
21 less than 200 miles?

22 A Now with the new expressway they have opened, you can
23 make it in about 45 minutes from New London to the out-
24 skirts of Hartford.

25 Q Berlin, Connecticut?

1 identification?

2 Judge Allard: It will be marked for identification as
3 Exhibit 62.

4 (Whereupon, the document was
5 marked as Applicant's Exhibit
6 No. 62, for identification.)

7 Q Mr. Forster, if the proposed service by Mascony were
8 approved by the I.C.C., would you utilize that service?

9 A I would.

10 Q Tell us why.

11 A Largely because of the uncertainty of the present
12 services, that is, how long you may have to wait for the
13 ferry and also the possibility of arriving not so much at
14 Orient Point, but in New London, if you can't make the
15 last ferry it's a long trip around by way of Throgs Neck
16 Bridge, which in our case is about 450 miles versus about
17 230. I'm speaking now of the distance on Shelter Island,
18 9 miles to Orient Point and the distance from New London
19 to our place in Sandwich.

20 Q On page 2 of what has been marked for identification
21 as Exhibit number 62, Mr. Forster, you reflect a distance
22 of 450 miles via road versus 230 miles via ferry?

23 A That is correct.

24 Q Is that one way?

25 A That's right, that's one way.

Q By use of the ferry you would be able to save about

1 46 road miles; is that correct?

2 A That's correct.

3 Q Based on your own observation, how many gallons of gas
4 would you save?

5 A About 15 gallons, 12 or 15.

6 Q 12 or 15 gallons one way?

7 A Yes.

8 Q Between 24 and 30 gallons of gasoline on a round trip?

9 A That is correct.

10 Mr. Weiner: I have no further questions of this
11 witness.

12 Judge Allard: Mr. Greene, you may cross-examine.

13 Mr. Greene: Yes, sir, your Honor.

14 CROSS-EXAMINATION

15 Q (By Mr. Greene) Mr. Forster, how long have you been
16 using this ferry between Orient Point and New London?

17 A Four years.

18 Q Your survey covers only three years; is that right?

19 A Yes, I thought three years would be representative;
20 rather than just this year, let's have a couple of previous
21 years.

22 Q Is there some reason you left out 1970 figures?

23 A No.

24 Q How many trips did you make in 1970?

25 A 1970 would be about the same; four, five.

1 A Yes, I go up to New London quite a bit, but that is
2 one place I have to go three times a month. It saves me
3 mileage and now that the gas is going to be cut down I have
4 to find every means possible.

5 Q With respect to going to New London those three times
6 -- you said three times a month?

7 A Yes.

8 Q How many miles would you say, road miles?

9 A It is 275 miles exactly. The ferry cuts off about 125
10 miles.

11 Q When you say it is 225 --

12 A 275 miles from Mattituck to Bennington, Vermont.

13 Q To Bennington?

14 A Yes, that's Route 7 or 22.

15 Q I believe you testified earlier that it is 125 miles
16 by the ferry?

17 A By ferry; no, not 125 via ferry, but 125, by ferry, off
18 the 275 miles.

19 Q It is 150 miles?

20 A No -- yes, 150 miles; that's right.

21 Q By the ferry?

22 A With using the ferry.

23 Q Have you ever considered what the savings in gasoline
24 would be?

25 A It's about 6 to 10 gallons, approximately.

1 Q Six to ten gallons --

2 A Per trip.

3 Q We would double that coming back; is that correct?

4 A Yes, that would be doubled.

5 Mr. Weiner: I have no further questions of this
6 witness.

7 Judge Allard: Cross-examination, Mr. Greene.

8 CROSS-EXAMINATION

9 Q (By Mr. Greene) Mr. Rupprecht, how long have you been
10 traveling between Mattituck and Bennington?

11 A Since about the first of the year when we acquired this
12 property.

13 Q That's just this year?

14 A Yes, sir. But we have traveled before. We owned a
15 large place up in New Hampshire before that. We didn't use
16 the ferry because you could never get on it.

17 Q How long have you been using the ferry altogether or
18 how long have you traveled to New England?

19 A Since the first of this year, since January.

20 Q You said that prior to that time you had occasion to
21 travel to New England. How long have you been traveling
22 from Mattituck to New England altogether, ten years, twenty
23 years, thirty years?

24 A No. A little over two years because I have just moved
25 to Mattituck in the last two years.

1 time. It's four and a half to five hours one way and just
2 two hours the other way. You know, like 65 miles an hour,
3 I guess you can say it was 130 miles or something like
4 that, 140 from New London.

5 Q 130 miles from New London; driving from Aquebogue
6 around to New London would be how many miles?

7 A It's almost 300 miles. 290-something.

8 Q Do you have any idea how many miles you would be
9 saving as a result of a ferry?

10 A It's not the miles so much, it's the time and the
11 fuel now. We couldn't afford to get up and come back. I
12 can go up there and back on a tank of gas if I take the
13 ferry. If I go up the other way, I have to stop for gas
14 somewhere going up and I have to stop coming back.

15 Q You could not do it on a Sunday, could you?

16 A No, I couldn't. That's the only time I have to go
17 up there on weekends.

18 Q Would you utilize the ferry service offered by
19 Mascony if the Interstate Commerce Commission granted the
20 authority?

21 A Yes, I would.

22 Mr. Weiner: I have no further questions of this
23 witness.

24 Judge Allard: Cross-examination, Mr. Greene.

25 Mr. Greene: Yes, sir.

1 A Eleven years.

2 Q Over the eleven years, could you tell us if you ever
3 had to drive around because you had been unable to get on
4 the ferry?

5 A Yes, many times.

6 Q What is the mileage distance in driving around from
7 Orient Point to where you had to go, Providence, Rhode
8 Island?

9 A 58 miles.

10 Q 58?

11 A 58.

12 Q Driving around?

13 A I'm sorry, from New London to Providence.

14 Driving all around is 285 miles from Sag Harbor to
15 Providence.

16 Q Driving around?

17 A Yes.

18 Q If by the ferry?

19 A It's 15 miles from New London to Providence.

20 Q 15?

21 A 58.

22 Q You can save well over 200 driving miles; is that
23 correct?

24 A Especially now, with the gas situation, you can
25 imagine what the situation is going to be on January 2nd.

1 A It is a little more than that. In April and May it's
2 about every week.

3 Q I show you this map which was introduced in New
4 London, Connecticut as Exhibit number 8. If you look at
5 that map, can you tell us if Greenfield, Massachusetts is
6 pretty close to the Vermont - Massachusetts state line?

7 A Seven miles.

8 Q What is the direct distance or the easiest distance to
9 go from Sag Harbor, mileage-wise, the route, from Sag
10 Harbor to Greenfield, Massachusetts?

11 A Going to Orient Point and taking the ferry over to
12 New London, then north through Hartford and from Hartford
13 to Greenfield.

14 Q Do you know what the mileage distance is by that route?

15 A 115 driving miles.

16 Q 115 driving miles?

17 A Yes.

18 Q If you had to go around through Throggs Neck and New
19 York City, what would the distance be?

20 A 280 miles.

21 Q From a time factor, how many hours would it take you
22 via the ferry versus driving around?

23 A It's an hour quicker driving.

24 Q Would you have any idea of how many gallons of gas you
25 would save by the ferry as by driving around one way?

1 Q I would like to understand one thing. You said the
2 boat was usually congested in the spring, the summer and
3 fall; is that correct?

4 A Yes.

5 Q How many months during the winter season does the boat
6 operate?

7 A It operates until January 1st, thereabouts, and then
8 it ceases until it starts up some time in March over the
9 past few years. Prior to that, it did run twelve months for
10 a long time.

11 Q Prior to when?

12 A I don't know how many years. Let me think now.

13 I would say, I'm pulling a figure out of the year, the
14 last four, five years they have been ceasing during the
15 winter months.

16 Q What do you do then?

17 A Go around the Horn both ways, double up your men.

18 Q What kind of trucks do you operate?

19 A Tractor trailer trucks.

20 Q How long are the trailers?

21 A 40 feet.

22 Q Can you tell us what the difference in gas or fuel
23 consumption is by using the ferry compared to going around
24 the Horn?

25 A We operate on approximately 4 miles to a gallon of

1 fuel. You get 200 miles, 400 miles to ride.

2 Q Is that diesel fuel or gas?

3 A Diesel.

4 Q How much do you use if you use the ferry?

5 A You save that much. We go from Greenport to the ferry-
6 boat and that's it, maybe two gallons.

7 Q When you do go to New England, what points do you cover
8 with your truck?

9 A First stop we make is in Honkersville, right up outside
10 of New London. We work our way up to Ipswich, Massachusetts.

11 Q Is that on the Cape?

12 A It's about 20 miles north of Boston.

13 Q You do this on a regular basis?

14 A Yes.

15 Q Apparently you know that Mascony has proposed a service
16 by which they will put on larger vessels, have a year 'round
17 service because of their capability of operating in all
18 kinds of weather and accept reservations; is that true?

19 A Yes.

20 Q Can you tell us whether or not there is a need for
21 that service, in your opinion?

22 A The reservation, in my opinion, is the biggest asset
23 we can have when we could figure we could load a truck and
24 go down there and get on and make the trip, fine. On a
25 return load the biggest asset again is reservation because

1 Q In your opinion, Mr. Topping, would a vessel that has
2 the capacity of 100 cars alleviate some of those problems?

3 A It should alleviate a tremendous amount of it.

4 Q In connection with your driving from your home to
5 Boston to visit your daughter and son-in-law, do you know
6 what the mileage distance is from your home to Boston via
7 the Throggs Neck Bridge?

8 A Very close to 300 miles.

9 Q What is the mileage from your home here on the Island
10 to Boston, Massachusetts via the ferry?

11 A About 125 miles.

12 Q You would be saving approximately 175 miles; is that
13 right?

14 A Correct.

15 Q On the automobile that you drive, how many miles per
16 gallon do you get?

17 A About 10.

18 Q You would be saving about 17 gallons of gasoline?

19 A Each way.

20 Q Each way or a total of 34 gallons.

21 A Yes.

22 Q From a time factor, how long does it take you to drive
23 around versus actual time in using the ferry?

24 A I haven't driven around in the 50 mile speed limit era,
25 but that certainly would be six hours, six and a half. By

1 years.

2 Q If the service being offered and proposed by Mascony
3 is allowed to go into operation, would you utilize this
4 service using that ferry?

5 A Yes.

6 Q Can you tell us wh. you are here today, Mr. Warren?

7 A I get sick and tired of coming back, getting caught
8 in that Throgs Neck bridge traffic. The last time it
9 took me three hours. We got caught in there and, forget
10 it.

11 I hate driving through the city. The only time I
12 can get away is on Friday, and I try to get on that ferry
13 to get across. I can make it five and a half six hours
14 up to Augusta.

15 Q Up to Augusta, Maine?

16 A Yes, with the ferry running.

17 Q How many miles do you save by use of the ferry from
18 where you live?

19 A Two hundred.

20 Q You save 200 miles?

21 A I'd say approximately 200.

22 It's not the idea of the mileage, it's the idea of
23 getting through the city and over the bridges.

24 Q At this time of energy crisis, talking about mileage,
25 you are in the gas station business?

1 A Yes.

2 Q How many gallons of gas would you be saving one way?

3 A With my car, it is all according to the car. At
4 least ten, 15 gallons.

5 Q One way, or between 20 and 30 on a round trip?

6 A Right.

7 MR. WEINER: I have no further questions of this
8 witness.

9 JUDGE ALLARD: Cross-examination, Mr. Greene.

10 MR. GREENE: Yes, sir.

11 CROSS-EXAMINATION

12 Q (By Mr. Green) Mr. Warren, when did you first use
13 the New London Freight Line ferry?

14 A I have used it over the past five years.

15 Q Five years?

16 A Six years, I believe.

17 Q How many times have you used it in 1973?

18 A In 1973?

19 Q Right.

20 A Five, I would say, going over, none coming back.

21 Q Is this all during the summer months?

22 A If you count September, the summer months, yes.

23 Q How many times did you travel in September?

24 A This last September?

25 Q Right.

1 A If we can't get the people out there, it certainly
2 will affect the business.

3 Q Do you think it is going to curtail tourist travel?

4 A Definitely.

5 Q Do you think that in turn it might curtail the num-
6 ber of people traveling on the ferry service at the present
7 time?

8 A I would say so.

9 MR. GREENE: That's all.

10 Thank you, your Honor.

11 REDIRECT EXAMINATION

12 Q (By Mr. Augello) Do you feel that the establishment
13 of a dependable ferry service with reservations would
14 help alleviate the fuel shortage problem as far as your
15 tourists are concerned and your customers so they can
16 come the short way rather than wasting fuel going around
17 the long way?

18 A If they go in for this rationing, the way you are
19 saying, if a man can save himself approximately 300 miles
20 of gasoline, no matter how much his car uses, rest assured
21 they would favor using the ferry. Because at this point
22 the expense of using the ferry against driving around it
23 gets to be immaterial, in my opinion.

24 On the couple of occasions that I have had to use
25 the ferries, you can relax a little bit, it is 150, 175

1 miles less than you are driving. It is a long hike to
2 in one day.

3 MR. AUGELLO: Thank you very much.

4 JUDGE ALLARD: The witness is excused.

5 You may step down.

6 (Witness excused.)

7 MR. WEINER: Ormand Ewers.

8 Whereupon,

9 ORMAND EWERS

10 was duly sworn and testified as follows:

11 JUDGE ALLARD: The witness has been sworn.

12 You may be seated, sir.

13 DIRECT EXAMINATION

14 Q (By Mr. Weiner) State your name, please, and your
15 address.

16 A Ormand Ewers, Winthrop Road, Shelter Island.

17 Q What is your occupation, Mr. Ewers?

18 A Head of the Business Administration Department,
19 Suffolk County College.

20 Q Mr. Ewers, have you ever had an occasion to utilize
21 the ferry service between Orient Point and New London,
22 Connecticut going to or from southern New England?

23 A Yes. I lived in Clinton, New York and I became a
24 property owner on Shelter Island in 1959. So my using the
25 New London Ferry started in 1959.

1 around. I want to hit two plants the first day.

2 Q Have you ever had difficulty getting back through
3 New London?

4 A Yes; I have spent the night in New London a couple
5 of times.

6 Q What time of the year?

7 A In the summer mainly.

8 Q During the week?

9 A Yes.

10 Q Would you and your company find any benefit to the
11 proposed service from Mascony which would operate all year
12 round with reservation service?

13 A Most definitely for me, yes. This would mean I would
14 be assured of a berth on the boat, it would mean I could
15 spend a couple of hours in the office before I left.

16 My best time to visit these fellows to really go
17 over things with them is during our off-season which is
18 January and February.

19 When you talk an extra 200 miles, this year with the
20 gas shortage, the price of fuel going up, you only get
21 so much per mile when you drive, you just rather do it by
22 phone if there is no boat going.

23 The furthest plant from New London is ju about 200
24 miles, it is Concord, New Hampshire. Going around through
25 the city would add another 200 on to that.

1 If I may, I would like to explain the reasons for my
2 family's interest.

3 Q Please do.

4 A -- in improving the current New London ferry situation.
5 We have a son living in Massachusetts, in Cotuit Ledyard,
6 Connecticut, and a daughter in Dartmouth in Hanover, New
7 Hampshire. I mentioned before we live in North Haven.

8 The best route for us to visit our children, any of
9 these three, is by way of New London, and we want to make
10 quite a number of trips this coming year, at least a dozen.
11 We figured out roughly that if we had to go, if we had to
12 drive around to Ledyard, it would be about 200 miles one
13 way. By going by ferry, I don't think it would take us --
14 it takes us more than 27, 30 miles one way.

15 First of all, I would like to point out that it was
16 pointless for us to have to go to Orient Point if a ferry
17 can be made available here in Greenport.

18 Second, the uncertainty of getting on a ferry when you
19 get to Orient Point is frustrating, to say the least. The
20 same holds true at the New London end. Not only do we have
21 to leave home a couple of hours earlier than we should,
22 than it should be necessary, especially in the busy season
23 we still may have to wait a couple of hours to get on board.

24 Third, when we do get on the ferry, our inability to
25 get in and out of the car represents an unnecessary

1 Q December 7, 1973?

2 A Right. I went up then. We came back on Sunday.
3 Sunday we got there and they said it's too windy, the
4 boat's not running, and we cancelled out the trips.

5 That's what teed me off.

6 Q You are talking about on your way back from Foxboro,
7 Massachusetts, you arrived at New London, Connecticut?

8 A Yes.

9 Q What time did you arrive there?

10 A Twenty minutes to twelve for the 2:15 boat.

11 Q At that time you were informed it's cancelled?

12 A That it's cancelled.

13 Q What did you have to do?

14 A Ther I drove around home.

15 Q You were fortunate, were you not?

16 A I was very fortunate.

17 Q You had enough gas in your car?

18 A Yes, I had enough gas.

19 Q What is the road distance from Foxboro, Massachusetts
20 to Peconic?

21 A 270 miles.

22 Q What is the road mileage --

23 A 97.

24 Q -- via the ferry?

25 A Yes.

1 A It says investigation report, that's correct.

2 Mr. Weiner: Your Honor, I ask that these documents,
3 which have all been stapled, numbering six pages, be marked
4 for identification.

5 Judge Allard: They will be marked for identification
6 as Exhibit 70.

7 (Whereupon, the documents were
8 marked as Applicant's Exhibit
No. 70, for identification.)

9 Q (By Mr. Weiner) Dr. Johnson, if the service offered
10 by Mascony is allowed to go into effect, would you utilize
11 that service?

12 A I would, sir.

13 Q You mentioned that in addition to going to see your
14 mother in Massachusetts, you also go to Boston, Massachusetts
15 for various seminars?

16 A Post-graduate courses, yes.

17 Q Do you specialize in any particular field of medicine?

18 A Obstetrics and gynecology.

19 Q Is the convenience of a ferry from this end of the
20 Island important to you?

21 A It is, I think, yes.

22 Q How many miles would you save or do you save by using
23 the ferry versus driving around through New York City or
24 Throggs Neck going to Wellesey, Massachusetts?

25 A I would estimate about 140.

1 Q One way?

2 A That is correct.

3 Q How many miles would you save in driving from the ferry
4 service going to Boston?

5 A About the same.

6 Q You would save 280 road miles on a round trip?

7 A I would estimate that, yes.

8 Q In addition to the incidents that have been referred
9 to previously and those which are referred to in the last
10 two pages of Exhibit 70, marked for identification, where
11 you mention specific dates that is reflected in the District
12 Supervisor's investigation, over the past years can you
13 relate of any other unpleasant experiences you have had
14 with respect to this ferry service?

15 A No. I was selling an antique car which had recently
16 been repainted. I had them deliver it. I had to get up
17 very early, approximately 4:30 or 5:00 to get to Orient
18 Point early so I could get the car on the first ferry. It
19 was a rough day and my car was going on early and I was
20 afraid it would get splashed with saltwater which can
21 damage paint. I asked that I not be put on first and I
22 was told, well, I was in line, I had to go first. Finally,
23 I just said to the man, "If I do go on and this paint is
24 damaged, I will have to hold you legally responsible." He
25 said, "All right, if you want to act that way, fine."

Murray

1 to 100 cars and they could -- you know, no matter what time
2 you got there, you only had a half-hour wait, and you knew
3 you were going to get on the ferry. I think it's appalling
4 to have service at this juncture in a growing area like the
5 eastern end of Long Island on both fours, that they expect
6 you to arrive three hours before the ferry leaves. I can
7 get halfway up to New Haven in three hours from Southampton.

8 Q In view of the present energy crisis and the matter of
9 consumption of fuel, is it your opinion that a larger ferry
10 would be even more desirable to this community?

11 A No question about it. The energy crisis, I think a lot
12 of it is manufactured. I'm not completely sold on the fact
13 that there is an energy crisis to the extent that the oil
14 companies and Government want us to believe. But I think
15 that people, if we are going to have gas rationing, God
16 help us if we do, let's say we have gas rationing this spring,
17 something like a big boat is going to be an absolute neces-
18 sity because it's going to take you, forget about the time,
19 but it's going to take 10 or 15 gallons of gas to get over
20 to New London or to Bridgeport from this side of the Island.
21 If we're going to have rationing, something like this is
22 going to be an absolute necessity.

23 Q Even without rationing it will still mean 10 or 15
24 gallons of gas saved per vehicle.

25 A Yes.

Murray

1 Q On a round trip you are talking of 20 to 30 gallons of
2 gas.

3 A I would assume so.

4 Q You have 100 cars on this vessel, you are saving 200,000
5 gallons of gas.

6 A I would assume so.

7 Q Would you utilize ferry service such as that being pro-
8 posed by Mascony?

9 A Yes, I certainly would.

10 Mr. Weiner: Thank you, Mr. Murray.

11 The witness is available.

12 Judge Allard: Cross-examination, Mr. Greene.

13 Mr. Greene: Yes, sir.

14 CROSS-EXAMINATION

15 Q (By Mr. Greene) Mr. Murray, you gave some testimony
16 about the so-called energy shortage. Do you think this gas
17 rationing that you foresee for the spring possibly would
18 discourage a lot of people from traveling at all?

19 A Let's put it this way. If you have gas rationing, you
20 are going to have people who are going to be restricted in
21 their pleasure driving. You are also going to have people
22 who are going to cheat. It's going to be a horrendous thing
23 to try and operate, but I would think that if we have gas
24 rationing in this country this spring, I think there is going
25 to be a slow-down of pleasure driving. If the slow-down ge

1 am not sure of that date. It was a meeting in January or
2 December.

3 Q This was the meeting at the Henry Perkins?

4 A Henry Perkins, Riverhead.

5 Q What kind of meeting was that?

6 A It was to try to give a better ferry service out of
7 the east end of Long Island to New London, or any other
8 area in the State of Connecticut so wouldn't have to
9 have a bridge.

10 Q Who was present at that meeting?

11 A Perry Duryea, John Klein, Buzz Schwenk, Mr. Kammerer,
12 there was a Mr. McAllister, his son or son-in-law, I forget
13 which one it was.

14 MR. GREENE: I wonder if the record can reflect the
15 fact that the witness pointed to Mr. Lynch, indicating he
16 was one of the people.

17 MR. WEINER: When he referred to the son-in-law, that
18 was Mr. Lynch.

19 JUDGE ALLARD: And Mr. McAllister is Mr. Gerard
20 McAllister.

21 THE WITNESS: (Continuing) Albert Martoccia.

22 Q (By Mr. Weiner) Who is Mr. Perry Duryea?

23 A He is the Speaker of the House.

24 Q A State representative?

25 A Yes.

25

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1 Q Of the State of New York?

2 A Yes.

3 Q Not Washington?

4 A No.

5 Q Who is Mr. Klein?

6 A John Klein is County Supervisor.

7 MR. WEINER: May the witness be allowed to testify?
8 The audience should be admonished to refrain from answer-
9 ing these questions.

10 Q (By Mr. Weiner) Mr. Hubbard, please answer the
11 question. Who is John Klein?

12 A John Klein is the County Executive.

13 Q You mentioned the name of Mr. Kammerer..

14 A He is an engineer with Suffolk County.

15 Q You mentioned one other name after Mr. Kammerer.

16 A Buzz Schwenk.

17 Q What is his position?

18 A He is the Republican leader of Suffolk County.

19 Q And Gerard McAllister and his son-in-law, Mr. Lynch,
20 represented New London Freight Lines?

21 A Yes.

22 Q And the last gentleman named, Martoccia?

23 A He is the Supervisor of Southold town.

24 Q At that meeting whereby you discussed ferry service
25 from Greenport, Long Island to New London, Connecticut,

1 tried to use it, did you notice any waiting time for ferries?

2 A Yes, sir, there has always been a wait.

3 Q Do you feel a reservation system such as that proposed
4 by Mascony in the use of this vessel on a proposed service
5 would be helpful and beneficial to you?

6 A Yes, sir, very much so.

7 Q Could you tell us why?

8 A One thing, when I went up on Monday nights I ran store
9 orders. I have got stops at a Howard Johnson's in Waltham,
10 Mass.; Fall River, Mass. and a few other large stores I do
11 work with. They require you to be there at certain times.
12 If you are not able to unload in time to make your scheduled
13 deliveries you lose a contract. I lost one contract already
14 in the past two years because of that.

15 Q If you can't make the ferry and you have to go around the
16 horn you have to lay over in Boston an extra day, or at what-
17 ever point it is?

18 A Right, before you can pick up your return load.

19 Q What is the distance around the horn via Throgs Neck from
20 where you pick up this merchandise at Greenport to Boston?

21 A It is approximately 318 miles.

22 Q Via the ferry what would it be?

23 A It would be about 118.

24 Q How many gallons of gas do you figure you would save if
25 you used the ferry?

- 1 A I save 48.
- 2 Q How many miles do you get to a gallon?
- 3 A About three.
- 4 Q You would save 48 gallons of gas one way?
- 5 A Right.
- 6 Q Or on a round trip 96 gallons of gas?
- 7 A Yes.
- 8 Q How many trips per week do you make?
- 9 A Usually I run, I'm on the ferry probably four days a
10 week.
- 11 Q In the course of a week you can save almost 500 gallons
12 of gas?
- 13 A Yes, sir.
- 14 Q Is that correct?
- 15 A Yes.
- 16 Q Is this gasoline or diesel?
- 17 A Diesel.
- 18 Q Either way you would save that number of gallons?
- 19 A If it is gas I would probably be saving a lot more.
- 20 Q These are not sleeper cabs, are they?
- 21 A Yes.
- 22 Q You have got to sleep in the cab when you have to lay
23 over?
- 24 A Yes, sir.
- 25 MR. WEINER: The witness is available for cross-examina c

1 occasions with my heavy machinery, trying to get heavy
2 machinery from one place to another.

3 Q Going back to last year when you were unable to use the
4 ferry, could you tell us the incident in connection with
5 your inability to use the ferry? Where were you going to,
6 where were you coming from, what was the purpose of the
7 trip?

8 A The purpose was to pick up a machine that we had pur-
9 chased in Pawtucket, Rhode Island. We were unable to get on
10 the ferry because it was overloaded, overcrowded, and there
11 was no way of going.

12 So, we had to ride all the way around. Anybody who sits
13 here knows what a lowbed is. They are built very stiff and
14 rigid and are not made to make many, many miles like that.
15 We had to punish it and go around.

16 The other occasion was to get to East Hartford with a
17 machine for repairs. One of our main repair places for
18 picking up parts or having repairs done is in East Hartford.

19 Q Does that involve lowbed movements?

20 A That is strictly lowbed movements, yes.

21 Q Do you know what the distance was via the road when
22 you had to go around the horn?

23 A Well, from here to the bridge and up there is about 200
24 miles each way. When you go to Providence, why you have got
25 another 50 miles onto it, 250 miles each way.

1 Q Would the utilization of a ferry service whereby you
2 could have gotten your truck on there have been of value to
3 you?

4 A Well, quite definitely.

5 Q How many miles would you have saved?

6 A 200 from here to the bridge, and back to New London.

7 Q When you are operating the tractor with the lowbed trailer
8 can you tell us what particular type of fuel you used, diesel
9 or gas?

10 A Diesel and gas. I have one of each.

11 Q How many gallons of gas do you consume by going around
12 the horn one way from Orient to New London?

13 A We get five miles to the gallon.

14 Q How many gallons of gas would you say you use by getting
15 five miles to the gallon and going over 200 miles?

16 A You get 200 miles, you are saving 200 miles one way.

17 Q That is a saving of 40 gallons of gas?

18 A Yes.

19 Q On a round trip, 80 gallons is saved?

20 A Right.

21 Q From a time factor, how much time do you save from the
22 use of a ferry?

23 A About five and a half hours each way.

24 Q Do you recall the particular time of the year that you
25 tried to get the New London-Orient Point ferry from Orient

1 Q In conjunction with the proposal, too, as a holding
2 area, or station area for automobiles?

3 A Yes.

4 Q In connection with the vessel itself, when you look
5 at Exhibit B1 marked for identification, how will the
6 vehicles themselves go onto the vessel?

7 A On this particular site, the vessel will pull into the
8 slip and the cars will drive on the vessel.

9 Q Will there be a ramp?

10 A Yes, on the docking site.

11 Q What kind of a ramp?

12 A There will be a stationary ramp on the dock that will
13 drop onto the bow of the vessel. That moves up and down
14 depending on the rise or fall of the tide.

15 Q With respect to the staging area of the cars and trucks,
16 both are referred to as the Komaiko property and the
17 Reynolds property, and the Bohack property or the Dolfinger
18 property, even your present property, will you have
19 personnel there directing traffic depending on the circum-
20 stances whether the vessel is unloading or loading?

21 A Yes, we will.

22 Q Going away from Exhibit No. B1 and your proposal, in
23 view of what has happened since the last hearing in New
24 London, Connecticut, namely the energy crisis, how many
25 gallons of fuel will the vessel use on a trip from New

1 London, Connecticut, to Orient Point one way?

2 A Approximately 550 gallons of No. 4 or No. 6 oil.

3 Q No. 4 or 6 oil?

4 A Yes.

5 Q With a capacity of 100 automobiles, and you have heard
6 the testimony this week, have you not?

7 A Yes, I did.

8 Q There would be approximately a savings of 2,000 gallons
9 of gasoline?

10 A For a capacity load, yes.

11 Q That is one way?

12 A Yes.

13 Q If you made two trips, one from New London to
14 Greenport and another one from Greenport back to New London,
15 there would be a savings of 4,000 gallons of gasoline?

16 A That is correct.

17 Q With tractors and trailers, it might be even more,
18 is that correct?

19 A Yes. Referring to Mr. Douglas's testimony, he had
20 mentioned somewhere around four gallons to the mile that
21 he got for his particular vehicle.

22 MR. GREENE: Your Honor, I object to that response
23 and ask that it be stricken. My recollection is that Mr.
24 Douglas testified that the figure was five miles per gallon.
25 I think his testimony should speak for itself, rather than
asking this witness to say what his recollection of somebody

1 else's testimony is and have it in there as evidence.

2 JUDGE ALLARD: Reframe your question, Mr. Weiner.

3 Q In connection with tractor trailers, based on what
4 you have heard here this past week, the number of gallons of
5 gas per tractor and trailer would be greater than that of an
6 automobile, isn't that correct?

7 A Yes.

8 Q You have heard some testimony stating that some of these
9 tractors get mileage of anywhere from three to five miles
10 per gallon?

11 A Yes.

12 Q If you were to take the three to five miles per gallon
13 and divide it into the number of miles going around you
14 would be able to compute the actual number of gallons
15 utilized?

16 A Yes.

17 Q On the basis of five miles per gallon and a road
18 distance of 200 miles, there would be a saving of how much?

19 A 40 gallons.

20 Q 40 gallons one way?

21 A Correct.

22 MR. WEINER: The witness is available for cross-examin-
23 ation.

24 JUDGE ALLARD: Mr. Greene.

25 MR. GREENE: Yes, sir.

1 to four hours?

2 Q You are figuring 30 minutes for loading and unloading on
3 either side, is that right?

4 A Approximately 30 minutes. This is what we are projecting
5 yes.

6 Q That would be two and a half hours running time?

7 A No, round trip I am talking about, not one way. It is
8 an hour and a half. We are projecting an hour and a half
9 running time each way, a half hour unloading and loading on
10 each side. One and a half and one and a half is three, and
11 the half hour on each side is four.

12 Q Which would be 16 hours a day?

13 A In our proposal, approximately that way.

14 Q You don't have any definite figure in mind as to how many
15 people you are going to have positioned on any of these
16 pieces of property? It will just be whatever you feel you
17 need at the time?

18 A No, it is not whatever we feel we need. It is whatever
19 is necessary to accommodate people.

20 Q You used some figure of 550 gallons of No. 4 or 6
21 diesel oil?

22 A That is correct.

23 Q That would be the amount of fuel that you presume is
24 going to be consumed for one sailing across from New London
25 to Orient Point?

A For an hour and a half run, yes.

1 Q To Greenport, excuse me. It is 1100 gallons for a round
2 trip?

3 A Approximately. In fact, it would be a little bit more
4 because I would be laying a half hour and we would be firing
5 the boilers off on one gun at least to keep heat in the
6 winter, for the generator on the line for lights. It would
7 actually be a little more than that.

8 Q Actually, you would keep your boilers running 24 hours
9 a day during the summer months, would you not?

10 A Not necessarily, no.

11 Q You would shut them down at night and start them up
12 again in the morning?

13 A This, of course, would depend on the weather. In
14 other words, I can't say if we would run them 24 hours or
15 if we would shut them down for 8 hours. It would depend
16 on the traffic flow and how often the vessel was used.

17 Q In any case, considering the time that you are in the
18 dock and considering the time that it takes to fire up
19 boilers in the morning, and the time that you keep them
20 operating, your average fuel consumption per voyage would
21 be considerably more than 1100 gallons, isn't that true?

22 A No.

23 Q It is not true?

24 A No. If you are asking to average it out per hour for
25 fuel consumption based on 24 hours, then you are talking

1 about something else. If you are talking about how much
2 fuel we burn for acrossing, then this is a different ball
3 game.

4 Q If I took 550 gallons and multiplied that times 8
5 I come up with a figure which would be substantially less
6 than what you would consume in a 24 hour period during the
7 month of August or the month of July, isn't that right?

8 A If you took 550 gallons and multiplied it by 8, you
9 would come up with less than we would burn for 14 hours,
10 is that what you said?

11 Q Right.

12 A I would have to figure that out. It seems it would be
13 a pretty good shot.

14 Q You haven't given any consideration to your total
15 fuel consumption then. You just figured out 550 gallons?

16 A It was in our projection. I don't know if it was
17 introduced in evidence or not. I don't have it right here
18 in front of me.

19 Q Mr. Power, what would be the draft of the New Jersey,
20 assuming it came into Greenport with a full load of fuel,
21 water and a full load of vehicles and passengers?

22 MR. WEINER: Objection, your Honor. That has already
23 been testified to in New London. I believe it was Captain
24 Evans who testified to that. I don't see any reason to go
25 into this matter right now. Besides, it is beyond the scope

27

1 A About 500 people.

2 Q Is the population of the east end of Long Island more
3 than 500 in the wintertime?

4 A I don't know.

5 Q Would you say it is more than 500?

6 A I assume it would be.

7 Q It looks like we have 500 people here.

8 A I don't know. I would say there isn't.

9 Q During the summertime the population of Block Island
10 swells to what amount?

11 A 6,000.

12 Q Would you say that the population of Long Island, the
13 east end of Long Island, would swell to 6,000 or more?

14 A I have no idea. I suppose it would be more.

15 MR. WEINER: Your Honor, I will ask you to take official
16 notice of the fact that Wood's Hole is an unincorporated
17 village located within the Town of Falmouth, Massachusetts.
18 If we have to resort to any briefs or other data, we would
19 ask you to take official notice of the U. S. Department of
20 Commerce census report for the year 1970.

21 MR. GREENE: No objection.

22 MR. WEINER: I have no further questions of this witness.

23 JUDGE ALLARD: Mr. Wronowski, was the purpose of your
24 answers to questions regarding situations where competition
25 was non-existent, meant to indicate that, in your opinion,

2d

1 it was simply not feasible for there to be competitive
2 ferry service anywhere?

3 THE WITNESS: In our field of service if we have
4 competition we couldn't render good service.

5 JUDGE ALLARD: Why?

6 THE WITNESS: Because we wouldn't be able to make
7 enough profit to render service.

8 JUDGE ALLARD: Are you suggesting that the law of
9 supply and demand that seems to work everywhere else doesn't
10 work in the ferry business?

11 THE WITNESS: I think it holds pretty true.

12 JUDGE ALLARD: Why?

13 THE WITNESS: Because it is so expensive to operate.

14 JUDGE ALLARD: Regardless of the demand?

15 THE WITNESS: If the demand is great enough I don't
16 see where the competitive line could come in there and grab
17 off the top of the profits and make a profit. If two
18 lines run, one against the other, eventually somebody is
19 going to lose. They can't exist.

20 JUDGE ALLARD: Regardless of the supply?

21 THE WITNESS: Regardless of the supply, from what I
22 have seen in ferry service.

23 JUDGE ALLARD: Why is that?

24 THE WITNESS: Because there isn't enough to sub-
25 stantiate especially a year 'round service.

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1 JUDGE ALLARD: In the summertime there is a great crowd?

2 THE WITNESS: You get the cream of the crop. Then in
3 the fall of the year it drops off and you come across, like
4 we do sometimes with maybe one vehicle and three or four
5 boxes of bread, and a case of milk. That goes on for days
6 at times. Traffic in the winter doesn't move.

7 JUDGE ALLARD: If what you say is true, then wouldn't
8 there be some special public interest considerations for
9 the single operator? In other words, since these carriers
10 have a license and they don't have a competitor, what
11 obligations do they have to the public?

12 THE WITNESS: To provide decent service.

13 JUDGE ALLARD: Yes, but what is decent service?
14 Is it decent from the point of view of the operator, or
15 decent from the point of view of the public, or something
16 in between? If it is something in between, where is it?

17 THE WITNESS: No. If there are enough complaints
18 because you don't supply service, proper service -- there
19 is always grounds for complaints which we do have. We have
20 complaints come in, we have to go before the PUC at a hear-
21 ing and try to iron out the complaints. We try to issue a
22 service that is free of complaints.

23 JUDGE ALLARD: You are suggesting that the ferry
24 service has some peculiar elements to it and that is one
25 of the few aspects in our economy where competition just

1 doesn't work?

2 THE WITNESS: It is because it isn't constant. If it
3 was a constant year 'round service --

4 JUDGE ALLARD: Then you are suggesting that if it were
5 more constant your argument starts falling down, is that
6 what you are suggesting?

7 THE WITNESS: Could be.

8 JUDGE ALLARD: If there is a greater supply?

9 THE WITNESS: If the ferry service that is operating
10 at the present time can't supply the demand, then there is
11 certainly room for another service.

12 JUDGE ALLARD: Then you are suggesting that actually
13 your answer isn't as rigid as it appears in the sense that
14 it depends on the circumstances?

15 THE WITNESS: It depends on the circumstances that
16 you have.

17 JUDGE ALLARD: If the supply were great enough, if
18 there weren't such peaks and valleys, and if there was a
19 constancy to the demand for service, you couldn't make that
20 a flat rule?

21 THE WITNESS: It all depends on what location you are
22 operating from. For instance, take now just this particular
23 line from New London to Orient Point. In the wintertime
24 there wouldn't be too many, too great traffic through there
25 due to the fact of where are the people going? Traffic

1 isn't moving, trucks aren't moving.

2 JUDGE ALLARD: The traffic doesn't move on the ferries
3 because the ferries don't operate?

4 THE WITNESS: If they did operate, where would they be
5 going?

6 JUDGE ALLARD: I don't know.

7 THE WITNESS: They come from one point over to here,
8 and then have to go all the way down to Long Island, which
9 they can just as well go down Route 95 to New York if that
10 is where they are going. In the summertime I can see it.

11 JUDGE ALLARD: What you are really saying is it depends
12 on all these economic factors?

13 THE WITNESS: Right.

14 JUDGE ALLARD: That is all I have.

15 MR. WEINER: Your Honor, you have raised something
16 which I perhaps would have to ask the witness about.

17 RECROSS-EXAMINATION

18 Q (By Mr. Weiner) Mr. Wronowski, you testified earlier
19 that there were two ferry services running from Falmouth to
20 Martha's Vineyard, is that correct?

21 A Wood's Hole or Martha's Vineyard.

22 Q They are both the same?

23 A All right.

24 Q Do they run all year 'round?

25 A No.

1 Q Does one run all year 'round?

2 A Yes, Wood's Hole.

3 Q I show you the census report issued by the United
4 States Bureau of Census for 1970 and ask you whether or
5 not Martha's Vineyard has a population of 6,117?

6 A Yes.

7 Q We have a little island off the coast of Massachusetts
8 with a population of 6,117 and it has two ferry services,
9 is that correct?

10 A That is right.

11 Q I show you the same United States Department of
12 Commerce Bureau of Census report for 1970 and ask you if
13 you will not agree with me that Suffolk County, which is
14 the eastern end of Long Island, has a population of
15 1,124,950 persons?

16 A Right.

17 Q In conclusion, in Suffolk County alone there are more
18 people than in Martha's Vineyard?

19 A Probably they all don't want to go to Connecticut
20 either.

21 JUDGE ALLARD: That is true, maybe that lot of people
22 don't want to go to Block Island, either, is that right?

23 THE WITNESS: Yes.

24 Q (By Mr. Wainer) If people want to go somewhere there
25 should be facilities available for them to go there, isn't

33

1 that true?

2 A I suppose so.

3 Q I am sorry?

4 A I suppose so.

5 MR. WEINER: No further questions.

6 RE-DIRECT EXAMINATION

7 Q (By Mr. Greene) Mr. Wronowski, Martha's Vineyard is
8 an island with no means of access or egress other than
9 ferry service, is that right?

10 A Yes.

11 Q You know Long Island has a number of bridges, don't you?

12 A Yes.

13 MR. GREENE: That is all.

14 JUDGE ALLARD: The witness is excused. You may step
15 down.

16 (Witness excused.)

17 MR. GREENE: Mr. Tasker has some problem with the
18 schedule of his witnesses. I would like to defer to him.
19 This is in regard to the Shelter Island ferry.

20 MR. TASKER: We have two witnesses who would like to
21 testify with regard to the Shelter Island ferry.

22 JUDGE ALLARD: Very well.

23 MR. TASKER: Mr. Beckwith.

24 Whereupon,

25 FRANK BECKWITH

was duly sworn and testified as follows:

36

1 A The schedule starts on the first trip weekdays at
2 5:40 in the morning. The last ship at night from Greenport
3 is twelve o'clock and, of course, 11:45 from Shelter Island.
4 The last trip is out of Greenport, New York.

5 Q What is the frequency of the trips?

6 A The frequency, from about six o'clock until nine, we
7 run every 15 minutes with two vessels after 7:30 and from
8 nine until 10 we run every 20 minutes. From ten until
9 11:30 we run practically every 15 minutes, and from up
10 until one o'clock we have a 20-minute trip and a 15-minute
11 trip.

12 You can say that during the time from 7:30 in the
13 morning, for all intents and purposes, until 6:50 at night
14 we average about a trip every 15 minutes.

15 Q Is this for the full year 'round, or is this seasonal?

16 A This is year 'round. Of course, during the busy time
17 or summer season, we run the third boat. That adds to our
18 schedule.

19 Q You run a third boat?

20 A We run the third boat.

21 Q With what frequency do you run the third boat?

22 A There is a boat about every seven minutes, between
23 seven and eight minutes.

24 Q This is the schedule that you would adhere to in the
25 summer season?

1 A Coming into the slip on this particular side. When
2 the wind is in the southern quarter, we will face south or
3 southwest, then we have a problem getting out.

4 Q What is the problem?

5 A The problem is to get clear of the slip with enough
6 weigh on the boat in order to make a right turn.

7 Q You make the right turn to clear an obstacle?

8 A To clear an obstacle, which in this particular case
9 is the dock at Mitchell's.

10 Q That is the dock that Mascony is proposing to use --

11 A It is.

12 Q -- for a ferry terminal?

13 A Yes.

14 Q Could you tell us the distance between the end of the
15 Mitchell dock and the Long Island Railroad dock?

16 A It is something over 125 feet.

17 Q Mr. Beckwith, if a vessel were at the Mitchell dock
18 and protruded from 50 to 100 feet beyond the end of that
19 dock, would this interfere with the ferry service at the
20 Shelter Island ferry?

21 A In my opinion, it would make it impossible to make a
22 departure from Greenport slip.

23 Q If we assumed that the Mascony Ferry Service is going
24 to operate a 350-foot ferry vessel in and out of the
25 Mitchell pier, in your opinion would this interrupt service

40

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1 tragic, let us say.

2 Q Mr. Beckwith, are you familiar with the depths of
3 water in and around the Greenport terminal?

4 A I am.

5 Q By the Mitchell dock?

6 A I am, certainly.

7 Q Could you tell us the depth of water at the east side
8 of the dock that Mascony proposes to dock their boat at?

9 A At ordinary low water I know it would be between 8-1/2
10 and 9 feet.

11 Q How do you know this?

12 A I know this because I sounded it with a lead lung.

13 Q When did you sound it?

14 A I sounded it yesterday.

15 Q At what tide?

16 A At ordinary low water.

17 Q You found the depth 9 feet?

18 A Between 8 and 9-1/2 feet.

19 Q Mr. Beckwith, are there times of the year when there
20 are unusually low tides below the mean low water?

21 A There are.

22 Q What would be the depth, the drop below the ordinary
23 mean low water?

24 A I would say that probably would be at least two feet.

25 Q So that these areas where you sounded on extreme low,

1 Q These are circumstances that are beyond your control,
2 isn't that right?

3 A They certainly are.

4 MR. WEINER: I have no further questions.

5 JUDGE ALLARD: Mr. Beckwith, before you step down:
6 Referring to Exhibit 81, there are about 170 feet between
7 where they are proposing to berth the Mascony vessel and
8 the Long Island dock. Isn't that enough room for your
9 Shelter Island ferry to get through?

10 THE WITNESS: Not with the wind, sir, in certain
11 quarters.

12 JUDGE ALLARD: How wide is your ferry boat?

13 THE WITNESS: Our ferry boat is 30 feet wide.

14 JUDGE ALLARD: Roughly speaking, you have 70 feet on
15 each side if the Mascony vessel were in berth?

16 THE WITNESS: Right.

17 JUDGE ALLARD: You would have 70 feet on each side
18 to be able to get out. You said 70 feet on each side isn't
19 enough?

20 THE WITNESS: Sir, when you leave the slip and the
21 wind is in the southern quarter --

22 JUDGE ALLARD: You mean blowing toward the Mascony
23 vessel?

24 THE WITNESS: Right. We cannot turn the vessel until
25 we are clear of the slip. In other words, if you try to

1 turn the vessel the stern will hit the piling and keep
2 knocking the bow down. So, you cannot make a right turn.

3 JUDGE ALLARD: Actually, you mean that these distances
4 without taking into consideration these other things are
5 somewhat illusory, in that sense? By illusory, I mean
6 you have 70 feet on each side, so you can make it through
7 without any difficulty, but it is because of the angle that
8 you have to get into the slip —

9 THE WITNESS: Right, that is correct.

10 JUDGE ALLARD: In what way would the berthing be so
11 that it would be not relevant in your operation? In other
12 words, what would you have to do, move it over further?

13 THE WITNESS: Actually, if I may, our ferry slip
14 isn't in this position here. Our ferry slip is right up
15 here. It is in a direct line with the end of this "L".
16 Our ferry slip is right here.

17 JUDGE ALLARD: You mean Exhibit 81 is misleading or
18 wrong?

19 THE WITNESS: It is an old 1923 print.

20 JUDGE ALLARD: Nobody told us that this morning.
21 If we had known that this morning, Mr. Power probably
22 wouldn't have put this diagram on there.

23 MR. WEINER: That is correct. This was furnished to
24 us by the protestants, which is what they were going to
25 rely on.

1 Q Are you licensed to operate this vessel?

2 A I am licensed for 100-ton operation like, which covers
3 the tonnage of these vessels.

4 Q How long have you been licensed?

5 A 30 years.

6 Q Mr. Harris, please look at Exhibit 81.

7 A Yes, sir.

8 Q Does that accurately reflect the slips of the Shelter
9 Island ferry?

10 A Yes. The only thing that would be a contingency is
11 the shape of the inner slip, which you come into, which --

12 Q It accurately shows the relationship of the Shelter
13 Island slips to the Mitchell dock?

14 A Yes, I would say it does, from my observation.

15 Q In your opinion, as an operator of these ferries,
16 the narrowing of the distance between the Long Island
17 Railroad dock and the Mitchell dock, in your opinion would
18 this affect the operation of the Shelter Island ferries?

19 A Well, in my opinion it would form an obstruction.
20 Under certain circumstances I doubt that we could run with
21 the vessel in the mooring.

22 Q What circumstances would that be?

23 A One of them would be the wind, the direction of the
24 wind. If it was out of the southern quarter or from the
25 southeasterly quarter, with any vessels at all, if we have

1 a great deal of wind on the side of the ferry boats, and
2 I am quite sure besides myself the other skippers would
3 hold in rather than take a chance of trying to clear her
4 stern. We would be in a position of taking an unnecessary
5 risk.

6 Q How often would you estimate that this would take
7 place on an annual basis?

8 A This takes place every time there's an easterly storm
9 In this area during the winter months the easterly storms
10 are quite frequent. Sometimes there are as many as two
11 or three a month, sometimes more. My experience in this
12 area, going through from October through to the April
13 season, we can expect them almost weekly. It may not be
14 weekly, it may be bi-weekly, but these are the cycles we
15 go through.

16 Q During those easterly storms with the docking facilities
17 that are now there in the Mitchell dock in its present
18 location, would you be able to operate under those easterly
19 wind conditions?

20 A We couldn't operate with a vessel extending 100 feet
21 out beyond Mitchell's present dock, for the simple reason
22 that if the wind is from the northeast it has a tendency
23 to round Greenport, which would give us an almost easterly
24 direction on her stern. In order to make the slip, the
25 only procedure that we carry at present is to round off

1 close between Claudio's and the shipyard to get our stern
2 far enough over so that we are squared off at the slip.
3 At that point we proceed along the docks in order to keep
4 the boat from yawing. If we approach from an angle with
5 this vessel in we are going to breach to the extent that
6 we are going to crab, I should say, because these vessels
7 have two propellers on them. There is a forward propeller
8 and a stern propeller. This action with the windage on
9 the side doesn't give us too much control. We don't have
10 enough rudder. We are coming in on a crab fashion. There
11 comes a point where you are going to take down docks or
12 also, there is a case of not having good judgment in running.

13 Q You have mentioned that is this Mascony vessel were
14 in the Mitchell pier and were protruding 100 feet out that
15 you would have a problem?

16 A Yes, sir.

17 Q Would you have any problem if it protruded 30 feet out?

18 A As I said, under certain weather conditions, yes. We
19 have had trouble. We have even had one boat try to clear
20 the present dock and couldn't make it and had to go around
21 because the wind pinned him in and he tried his best to get
22 by it and he couldn't do it. He ended up on the beach.
23 This is a problem we are always up against. The only
24 thing we do in heavy easterly weather or southeasterly
25 weather is we put a line and spring the boat off as much

52

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1 as we can so she tries to clear Mitchell's dock. As
2 Mitchell's dock is now, it has always been a hazard.

3 Q Do you come under these circumstances close to the
4 Mitchell dock?

5 A Oh, yes, quite often.

6 Q How close would you say?

7 A At times we rub it. We bounce. If it, let me put it
8 that way. There are times one of our captains tried to
9 back up and ended up on the beach trying to avoid hitting.
10 This is a constant problem whenever there is easterly weat

11 Q Mr. Harris, if the Mascony vessel, which is 350 feet
12 long, and I think you have heard testimony concerning it --

13 A Yes, sir.

14 Q Do you have an opinion as to the time it would take
15 this vessel to reach its dock commencing at a point 1,000
16 feet off from the dock?

17 A Of course, there are extenuating circumstances which
18 revolve around the weather, also other vessels in the area
19 I would think from the 1,000 feet off before he got his
20 lines secured and got his ramps down, if he could do it
21 under 20 minutes he would be doing exceptionally well.

22 Q During this docking operation do you believe that
23 it is safe for the Shelter Island ferries to enter and
24 leave their slips?

25 A No. Two boats couldn't operate at one time. In other

1 record how this whole thing hangs together?

2 MR. GREENE: Yes, sir.

3 oOo

4 GERARD MC ALLISTER

5 was duly sworn and testified as follows:

6 JUDGE ALLARD: The witness is sworn and may be
7 seated.

8 MR. GREENE: Your Honor, in connection with Mr.
9 McAllister's testimony, I would ask to have marked for
10 identification at this time, a document captioned,
11 "Statement of Gerard M. McAllister," which has previously
12 been furnished to the parties, and to you also, Your Honor.

13 I would provide the reporter with the original,
14 executed copy of that, at this time.

15 JUDGE ALLARD: Yes, sir.

16 That statement of Gerard M. McAllister will be
17 marked for identification as Exhibit 93.

18 (Protestant's Exhibit No. 93,
19 Witness McAllister, was marked
for identification.)

20 DIRECT EXAMINATION

21 Q (By Mr. Greene) Mr. McAllister, I ask you to
22 refer to the document that's been marked for identifi-
23 cation as Exhibit 93, and ask you if that document con-
24 stitutes your direct testimony in this proceeding?

25 A It does.

1 Q Do you adopt it as such, at this time?

2 A I do.

3 Q In addition to the material contained in your
4 statement, Mr. McAllister, I'd like to ask you a few
5 questions on limited additional direct testimony.

6 First of all, would you state for us, precisely
7 what your position is with New London Freight Lines?

8 A I am a senior vice-president of New London Freight
9 Lines.

10 Q Could you describe for us what the organizational
11 structure is of New London Freight Lines, with particular
12 emphasis on the management organization of the company?

13 A Yes.

14 New London Freight Lines is one of eleven wholly
15 owned subsidiaries of McAllister Brothers, Inc., the
16 parent corporation.

17 In order to be perfectly clear, the McAllister
18 Brothers, Inc., is owned by three senior McAllisters.
19 Three brothers. A. J. McAllister, J. P. McAllister,
20 and myself, Gerard E. McAllister. They own 88% of the
21 stock.

22 The Board of Directors is composed of those three
23 individuals --

24 Q The Board of Directors of McAllister Brothers?

25 A Of McAllister Brothers, Inc., and a Robert

1 McAllister, a cousin who also owns a minority position
2 of McAllister Brothers, Inc.

3 New London Freight Lines purchased approximately
4 eighteen years ago, was purchased in the year 1956, and
5 the officers of that corporation are James P. McAllister,
6 my brother, president; A. J. McAllister, and myself,
7 vice-president; James Flynn, treasurer and secretary.

8 The Board of Directors of New London Freight Lines
9 are comprised of J. P. McAllister, A. J. McAllister, and
10 G. N. McAllister.

11 Q Who owns the stock of New London Freight Lines?

12 A McAllister Brothers, Inc.

13 Q All of it?

14 A Owns all of the stock of New London Freight Lines.

15 Q In addition to the officers that you just named,
16 are there any other executives or any other persons in
17 executive capacity with New London Freight Lines?

18 A Most certainly.

19 Neil McAllister, my nephew, is general manager
20 in the New York office. And has had a great deal to
21 do with the corporation over the years.

22 At the present time, he's involved with other
23 corporate matters and therefore hasn't applied himself
24 I'd say 100%, to the activities. However, he is avail-
25 able, and he is on the job every day.

1 Captain Tuoker is resident manager, and he is
2 the person in every day responsibility of New London
3 Freight Lines, from an operational standpoint.

4 Brent Lynch is assistant to the general manager,
5 or Neil McAllister, and works in concert with Captain
6 Tuoker. Brent Lynch has probably spent 80 or 90% of
7 his time on the new construction program for New London
8 Freight Lines, involved with architects, financing,
9 accounting, and everyday administration of the corporation.

10 Q You mentioned a New York office of the corporation,
11 Mr. McAllister.

12 Could you explain to us what the relationship is
13 between the New York office of New London Freight Lines,
14 and the New London office of New London Freight Lines?

15 A The main office of McAllister Brothers, Inc., the
16 parent corporation, is at 17 Battery Place, and is the
17 hub of all the McAllister activities.

18 We own and operate over one hundred vehicles, with
19 offices in Philadelphia, Virginia, Puerto Rico, and
20 associated offices in Montreal, Canada.

21 The New London Freight Line office is in Pequot
22 Avenue, New London.

23 The people and staff on the New London side, are
24 in daily telephonic and mail communication with the head
25 office in New York.

1 Q Now, the office in New London, do you have staff
2 services available there, such as accounting and finan-
3 cial staff personnel, legal staff, administrative per-
4 sonnel, at the Pequot Avenue office?

5 A No.

6 All of these general administrative services are
7 provided by the main office.

8 All accounting, all bookkeeping, actually all the
9 daily records, other than the on the spot records, are
10 processed in New York, in the 17 Battery Place office.

11 Q Is the New York office then the executive office
12 of New London Freight Lines?

13 A That is absolutely correct.

14 Q The New London office is the operating office?

15 A New London office is the daily operating office,
16 and, of course, we do have a small office on the Orient
17 Point side.

18 We also have a resident port engineer by the name
19 of Louis Luke, who resides and is on the job everyday,
20 in the New London office.

21 Q What is his function?

22 A He's port engineer. He's in mechanical charge of
23 the vehicles.

24 Q To whom does he report?

25 A He reports to Captain Tuoker.

1 Q There's been some testimony concerning various
2 female employees, both at the New London side and the
3 Orient Point side.

4 Could you describe who these people are, what their
5 duties are, and to whom they report?

6 A Well, we have two ladies on the Orient Point side,
7 that spell each other throughout the season. They answer
8 phones. They are in direct communication, usually on a
9 daily basis, with the New London office. They are con-
10 stantly checking back and forth on passengers, capacity
11 load of each trip. They also sell tickets, collect the
12 cash, bank the cash, and do the everyday monitoring of
13 the operation itself.

14 And the same holds true on the New London side,
15 with the exception, that is the main New London office
16 on Pequot Avenue.

17 We have a lady and a daughter and a man that spell
18 each other on that side.

19 Also, Louis Luke has his office right in the same
20 building with them, the port engineer.

21 They, in essence, provide the same type of service
22 on the New London side.

23 We have an answering telephone service which is
24 a recording, because of the multitudinous phone calls
25 that come in, particularly in the summer season. There

1 is a voice recording which is changed as the seasons
2 progress, giving ordinarily the exact schedule, the
3 voice on the record gives the exact schedule, as the
4 person calls in. Then that -- toward the tail end of
5 the recording, the voice states if you have any further
6 requests for information, kindly call this number, and
7 another number is given.

8 If you call that number, you then will get a voice,
9 a person on the telephone.

10 Q Will that be the voice of one of these women?

11 A One of -- The man or the two women, or anyone of
12 the women, or if one of them happens to be possibly off
13 duty for a moment, we have an answering service.

14 But there will be a human voice responding to the
15 second call.

16 Q I see.

17 Could you state for us briefly what, if any, rela-
18 tionship exists between Bridgeport-Port Jefferson Steam-
19 boat Company on one end and New London Freight Lines?

20 A Yes.

21 Approximately twelve years ago a group of people,
22 a father and son team in Port Jefferson, approached
23 McAllister with the idea of purchasing, with the Acker
24 group, control of the Bridgeport-Port Jefferson Steamboat
25 Company.

1 There were a number of public individuals as stock-
2 holders in that corporation.

3 The Ackers took the position that if the McAllisters
4 would come in with them on the purchase, they not being
5 boat people, or boatminded, would ask us to provide all
6 of the professional service with respect to management
7 and everyday administration.

8 With that thought in mind, New London Freight Lines
9 bought 47% of the outstanding stock of Bridgeport-Port
10 Jefferson Company.

11 The Acker group owns 47%, and the balance of the
12 stock is owned by the -- Captain Tuooker's family, and
13 other outside public holders.

14 Q What is the function or activity of New London
15 Freight Lines in the day to day operation of Bridgeport
16 and Port Jefferson Boat Company?

17 A There's no relationship between the everyday opera-
18 tion of the New London Freight Lines services and the
19 Bridgeport-Port Jefferson services, with the exception
20 that Captain Tuooker, who is resident manager and com-
21 pensated by New London Freight Lines, is also manager
22 of the Bridgeport-Port Jefferson company.

23 Q I ask you to look, Mr. McAllister, if you would,
24 at a document that has been received in evidence as
25 Exhibit 87.

1 Do you have that before you?

2 A I do.

3 Q Prior to this morning, have you ever seen that
4 letter?

5 A No, I have not.

6 Q I see.

7 Could you tell us, is there any established pro-
8 cedure for handling correspondence that is addressed to
9 you, and received at the Pequot Avenue office of New
10 London Freight Lines?

11 A Yes.

12 We have a very clear understanding, and the organi-
13 zation is all apprised of it.

14 At the moment, any mail comes into the New London
15 Freight Lines, at the Pequot Avenue office, it's immedi-
16 ately forwarded to the New York office for attention.

17 If it's addressed to me, I will get it and respond.

18 This particular letter is addressed to me, but I
19 have not seen the original of it.

20 If I'm not there, Mr. Neil McAllister, the general
21 manager, will respond to it.

22 Q Have you undertaken any investigation during the
23 recess to determine whether this letter was ever received
24 at the Pequot Avenue office?

25 A Yes, we did.

1 We just called the Pequot Avenue office and got
2 the lady in charge, and read the letter to her, and she
3 said she has never seen it, the original of it.

4 Q Mr. McAllister, has your company, I say your com-
5 pany, let me get back to -- perhaps before I go further,
6 Your Honor, I plan now to get away from the organiza-
7 tional aspects of these companies.

8 If there are any other questions, I wonder, for
9 continuity, we shouldn't go into them now?

10 JUDGE ALLARD: Well, I think myself, it might be
11 better if we, before we get into any other areas, we
12 really have a clear understanding on the record of how
13 it all hangs together.

14 Do you have any questions?

15 MR. WEINER: No.

16 It may develop later that I may. It depends on
17 my cross examination of Mr. McAllister.

18 JUDGE ALLARD: In the process of all this, are we
19 going to clarify -- we've talked in terms generally, but
20 we haven't really brought out things like who is respon-
21 sible for setting schedules, and after schedules are set,
22 who is responsible for printing up the schedules, and all
23 that's contained in that. Who does that?

24 I mean, there are rather substantial areas of ques-
25 tions in my own mind that I'm not sure of how it all fits

1 Q (By Mr. Weiner) Mr. McAllister, perhaps in order
2 to clarify in everyone's mind the relationship between
3 New London Freight Lines and McAllister Brothers, it's
4 not my intent to be overly repetitious, McAllister
5 Brothers, Inc. owns one hundred percent of the stock
6 of New London Freight Lines, Inc., isn't that correct?

7 A That is correct.

8 Q And then in order to tie in the relationship of
9 New London Freight Lines, and the Bridgeport and Port
10 Jefferson Ferry, and McAllister Brothers, is it not
11 true that New London Freight Lines, Inc. is the corpor-
12 ate entity that owns 46-1/2% of the stock of the
13 Bridgeport and Port Jefferson Ferry?

14 A That's correct.

15 Q And 46-1/2% is owned by the Acker family?

16 A Right.

17 Q And the other 7% is owned by direct decendents
18 and heirs of the Tooker family?

19 A Plus some general public stockholders.

20 Q Is it not true that there was at one time, going
21 back to 1970, a decision with respect to the control
22 of New London Freight Lines, and the Bridgeport and
23 Port Jefferson Steamboat Company, by McAllister
24 Brothers?

25 A There were hearings before the I. C. C. with

1 respect to some steel, transportation of steel to the
2 West Coast by McAllister Brothers?

3 Let me show you this, Mr. McAllister.

4 I show you a copy of the printed decision of the
5 Interstate Commerce Commission, 336 I. C. C. 590.

6 Isn't that an investigation proceeding, plus an
7 acquisition proceeding?

8 A The title of it I think speaks for itself.

9 Q All right.

10 A Investigation and control proceeding.

11 That arose out of an application by McAllister
12 to extend its rights to carry steel for and on behalf
13 of the New York Port Authority, in the construction of
14 the new Port Authority twin skyscrapers in Manhattan.

15 McAllister was asked to bid on the business to
16 bring and carry the steel by barge from Long Beach,
17 California and Seattle, Washington to New York City,
18 and we applied for such extension of rights.

19 As a result of that, the various railroads who
20 naturally were abhorred by the idea of a tug and barge
21 system for the carriage of such steel, rather than their
22 own railroads, inaugurated this investigation of control.

23 Q You said the railroads; actually, wasn't it the
24 Commission itself that instituted the investigation?

25 A I understand that at the behest of the railroads.

1 Q Well, in any event, the Commission, the Bureau
2 of Enforcement, was the one that instituted that pro-
3 ceeding, isn't that true, by order of the Commission
4 on its own motion on February 8, 1968?

5 A That is correct.

6 MR. WEINER: May that decision, Your Honor, be
7 marked for identification?

8 JUDGE ALLARD: Yes, sir.

9 It will be marked for identification as Exhibit 95.

10 (Applicant's Exhibit No. 95,
11 Witness McAllister, was marked
12 for identification.)

13 Q (By Mr. Weiner) Now, starting with what has been
14 marked as Exhibit 95, the history there would adequately
15 show the relationship between New London Freight Lines
16 and the Bridgeport and Port Jefferson, and then the
17 parent, McAllister Brothers, Inc?

18 A Yes.

19 Just as I've testified here today.

20 Q That relationship has existed since 1961, is that
21 correct?

22 A That's correct.

23 Q And if we looked at Page 596, or what has been
24 marked Exhibit No. 95, we trace the method and the pro-
25 cedures and what happened with respect to the acqui-
sition of that stock.

1 Is that correct?

2 A I believe in essence that's correct.

3 Q The Arthur Tooker that is referred to on that page
4 is same Arthur Tooker that is, has been identified
5 by you as the resident manager of New London Freight
6 Lines, and the resident manager of Bridgeport and Port
7 Jefferson Ferry?

8 A That's correct.

9 He's general manager of the Bridgeport and Port
10 Jefferson.

11 Q General manager, I'm sorry.

12 Now, in your position as the vice-president, can
13 you tell us how much time you spend with respect to
14 New London Freight Lines?

15 A I would say over the past year and a half to two
16 years, it has been my major occupation.

17 Q How frequently are you in New London, Connecticut?

18 A Oh, I go back and forth every few weeks.

19 I'm over at Orient Point, naturally, more often
20 than New London.

21 But I'm on the telephone almost everyday, both
22 between New York office and the Pequot Avenue office,
23 or the Orient Point office.

24 Q Since you state that within the last year and a
25 half you have been more active than Neill McAllister,

1 could you tell us how much time Arthur Tooker spends
2 at New London Freight Lines, with respect to being the
3 resident manager?

4 A I believe you can get the best answer directly
5 from Captain Tooker on that.

6 I can give you my own opinion as to how much time.

7 I believe he's on the phone everyday.

8 Q He's on the phone everyday.

9 Captain Tooker resides in Bridgeport, Connecticut?

10 A No, he lives in Port Jefferson, Long Island.

11 Q Port Jefferson, Long Island.

12 Since you are his superior, you're telling us you
13 don't know how much time he spends over in New London,
14 Connecticut, do you?

15 A He's in the charge of the everyday operation.

16 I don't get into the everyday operation.

17 Q Who is the one that's in -- that Captain Tooker
18 would report to with respect to the everyday operation?

19 A Neill McAllister.

20 Q And --

21 A If Neill is not available, he'll call me or con-
22 sult with Brent Lynch.

23 They're the -- We are the four key people in this
24 organization, this corporation.

25 Q The authority that you referred to as Appendix 1

1 Q So far, your experience in January indicates that there
2 are less people traveling, period?

3 A Yes, compared with last January, and there's another
4 consideration that may or may not be wholly meaningful.
5 Since last January we have adjusted the toll rates once
6 upwards, so that, perhaps, has some bearing on the reduced
7 traffic.

8 Q At page 9 of your statement, Mr. Miller, you indicate
9 that you had a very substantial increase in the price of No.
10 6 fuel oil. Is this the type of oil that is burned on
11 vessels such as the New Jersey and the Delaware?

12 A Yes.

13 Q How many gallons are there in one of these barrels you
14 referred to?

15 A I don't know. I'm not positive. You know, there are
16 various gallonages in various barrels, and I'm not sure which
17 is the case here.

18 Q Forty-two, perhaps, somewhere in that neighborhood?

19 A Yes.

20 Q Now, at page 2 of your statement, you indicate that your
21 experience -- current experience is or was prior to the sale
22 of the New Jersey that it was consuming about 6,000 barrels
23 day in your operation.

24 Mr. Weiner: Six thousand gallons.

25 Q (By Mr. Greene) Six thousand gallons. Excuse me. Is

1 A I wouldn't say that.

2 Q Well, you just said it was your understanding; not that
3 you thought, but that you knew you had to have two documents,
4 the certificate of enrollment and a certificate of inspection.

5 A Right, and not having a need to take the vessel to
6 Greenport right now, all I had to do was take that to the
7 Coast Guard and I could have had my certificate of inspection
8 and proceeded to Greenport, but the hearing is in Washington
9 right now.

10 Q But you haven't done it.

11 A Why should I?

12 Q My question is: have you done it?

13 A No.

14 Q Do you have copies of the documents that have been marked
15 for identification as 111 and 112?

16 A Would you tell me which one -- all right. Yes, I do.

17 Q Looking at 111 first, that indicates that the pilings
18 themselves are to be supplied by you, does it not? All the
19 landlord has undertaken to do is place them for you?

20 A Yes.

21 Q And the prices shown on here are merely for placing those
22 pilings and it does not include the purchase price of the
23 materials?

24 A Correct.

25 Q Turning to Exhibit 112, there again the proposal made to

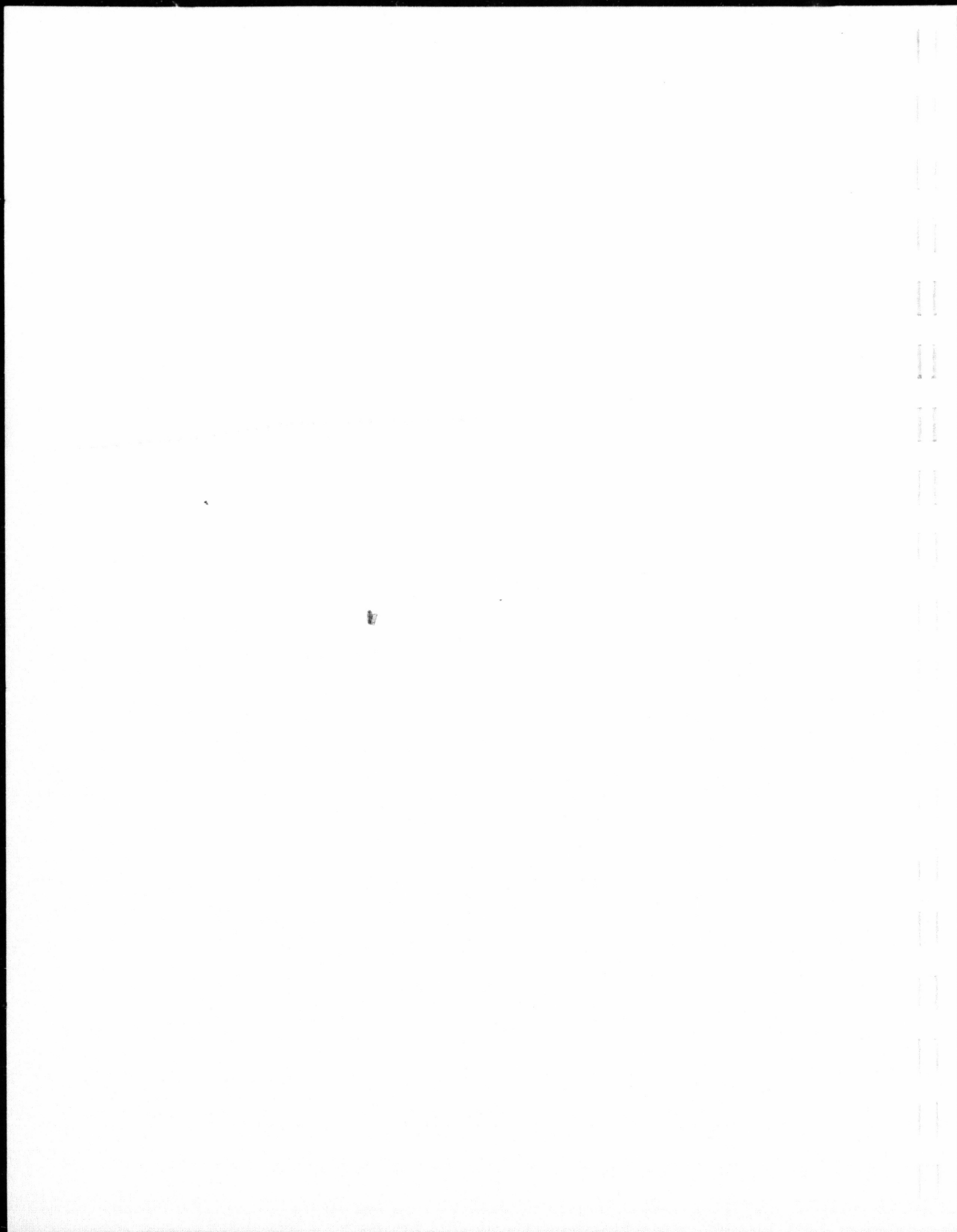


EXHIBIT 20



6720

AGREEMENT OF SALE

THIS AGREEMENT, made this 28th day of March A. D. 1973, by and between THE DELAWARE RIVER AND BAY AUTHORITY, a Bi-State Agency of Government created by Compact between the States of Delaware and New Jersey (herein called the "Seller"), and MASS., CONN. & NEW YORK SERVICES, INC. (herein called the "Purchaser"), WITNESSETH:

1. Seller agrees to sell and Purchaser agrees to buy the vessel "S.S. New Jersey".

2. The purchase price thereof is Three Hundred and Fifty Thousand Dollars (\$350,000.00), payable in the following manner: Thirty-Five Thousand Dollars (\$35,000.00) thereof shall be due and payable at the time this Agreement is executed and delivered; One hundred and Fifty Thousand Dollars (\$150,000.00) on or before May 30, 1973 ; and the remaining balance of the purchase price shall be due and payable at the time of the delivery of the said vessel hereinafter stated; said payments shall be made by cash or by certified checks made payable to the Seller.

3. The vessel "S.S. New Jersey" refers to her as she now exists and includes all apparel, appurtenances, accessories, furnishings and equipment on board, except any consumable stores on board said vessel

at the time of delivery, such as fuel, oil, food, etc., which items are not included as part of the said vessel but shall be paid for by the Purchaser at the time of delivery at the Seller's cost.

4. Purchaser has inspected the vessel and agrees to take the said vessel in an "as is and where is" condition and any bills incurred against said vessel from the time and date of delivery, such as repairs, painting, dry-docking and freight charges, etc. are for the account of the Purchaser and at the Purchaser's sole cost and expense.

5. Delivery of the vessel "S.S. New Jersey" shall be at the Ferry Terminal at Cape May, New Jersey, at noon the second business day following the date of payment of the balance of the purchase price due hereunder.

6. Seller agrees to execute the necessary bills of sale and all other documents required to transfer effective title to the property to the Purchaser, which property is to be free of all liens and encumbrances whatsoever, and the preparation and filing of the said title papers and documents and all consents required to be obtained under any law for the registry, enrollment and redocumentation of said vessel shall be performed and undertaken by the Purchaser with the Seller's cooperation at the Purchaser's sole cost and expense.

7. Seller makes no representations or warranties as to the state of condition of the vessel nor on the ability of the Purchaser to have the title of the said vessel transferred, documented or certified by the U. S. Coast Guard or any other governmental agency of the United States or any other State or Country, the vessel having been inspected by the Purchaser and bought on an "as is, where is" condition at time of delivery.

8. All risk of loss to the said vessel shall be solely upon the Purchaser from and after the time and date of delivery herein specified.

9. Purchaser covenants, represents and agrees that the Seller shall not incur or be liable for any commissions, brokerage of finder's fees of any kind in connection with the sale herein of said vessel and that any fees, if any, so incurred are the sole responsibility of the Purchaser who hereby indemnifies and holds harmless the Seller therefor, if demand for said commission or fees are made upon it.

10. Seller agrees that the Purchaser may, without wharfage or dock charges or fees, maintain the said vessel at its present berth or another similar berth designated by the Seller, at the Ferry Terminal at Cape May, New Jersey, for a period not exceeding sixty (60) consecutive days after the date of delivery of said vessel for the purpose of making repairs thereon by Purchaser; and the Purchaser agrees to pay the Seller wharfage and dock

fees at the rate of Five Hundred Dollars (\$500.00) per day for each day after the aforesaid sixty (60) consecutive day period that the said vessel remains berthed at the said Ferry Terminal but, in any event, said vessel shall be removed from said berth within ninety (90) days after said delivery.

11. Purchaser agrees to obtain and maintain in force Protection and Indemnity Insurance with a reputable company or companies in an amount of at least One Million Dollars (\$1,000,000.00), so as to provide third party liability coverage (including the Seller, its agents and passengers) for any possible injuries or damages which may be caused by the vessel during the period of time after delivery of the vessel to the Purchaser that the said vessel is berthed, maintained or operated at the Cape May Ferry Terminal and the Purchaser further agrees to hold the Seller harmless from all damages and injuries of every nature which may occur to Seller's facilities, property, vessels, employees, passengers or their property or the property or person of any other which may be caused by the Purchaser's vessel after the date of delivery while berthed, maintained or operated at the Cape May Ferry Terminal. The Purchaser agrees to furnish a certificate to the Seller showing that it has the insurance coverage above referred to.

12. Purchaser agrees that if he fails to pay or deposit the amount of One Hundred and Fifty Thousand Dollars (\$150,000.00) on or before May 30, 1973 , as provided in Paragraph 2 of this Agreement, this

Agreement shall become null and void and the Seller shall retain the Thirty-Five Thousand Dollars (\$35,000.00) down payment as liquidated damages; further, the Purchaser agrees that if he fails to pay the remaining balance of the purchase price on or before July 2, 1973 this Agreement shall become null and void and the Seller shall retain One Hundred Thousand Dollars (\$100,000.00) of the down payment as liquidated damages.

13. This is the essence of this Agreement.

14. This Agreement shall be binding upon the parties hereto, their successors, executors, administrators and assigns.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement in duplicate originals, either of which by itself shall be deemed the full and complete Agreement, by signing the same and affixing their respective seals as of the date first above written.

THE DELAWARE RIVER AND BAY
AUTHORITY

By: William J. Miller, Jr. (Seal)
SELLER

Witness:

W. Bright

Witness:

By: George R. Power (Seal)
PURCHASER

Arthur C. Higgins

STATE OF DELAWARE)
COUNTY OF NEW CASTLE) ss.

BE IT REMEMBERED, that on this 24th day of May, 1973, before me, the subscriber personally appeared William J. Mills, Jr., who, being by me duly sworn on his oath, deposes and makes proof to my satisfaction, that he is the Director of THE DELAWARE RIVER AND BAY AUTHORITY, a Bi-State Agency of the States of Delaware and New Jersey, the Agency named in the within Instrument; that the execution, as well as the making of this Instrument, has been duly authorized by a proper resolution of the said Agency; that deponent well knows the Seal of the said Agency; and that the Seal affixed and the Instrument signed and delivered by said Director as and for the voluntary act and deed of said Agency, in the presence of deponent, who thereupon subscribed his name thereto as attesting witness.

Sworn to and subscribed before me
the date aforesaid.

Arthur J. [Signature]
Notary

William J. Mills, Jr.
Director

STATE OF DELAWARE)
COUNTY OF NEW CASTLE) ss.

BE IT REMEMBERED, that on this 24th day of May, 1973, before me, the subscriber personally appeared George R. Pomeroy, who, being by me duly sworn on his oath, deposes and makes proof to my satisfaction, that he is the President and Treasurer of Mass. Bay Area Water Service Inc. a Corporation of the Commonwealth of Massachusetts, the agency named in the within Instrument; that the execution, as well as the making of this Instrument, has been duly authorized by a proper resolution of the Officers of said Agency; and that the Seal affixed and said Instrument signed and delivered by said President and Treasurer as and for the voluntary act and deed of said Agency, in the presence of deponent who thereupon subscribed his name thereto as attesting witness.

Sworn to and subscribed before me
the date aforesaid.

Arthur J. [Signature]
Notary

George R. Pomeroy
President and Treasurer

Nº 1132

CHECK NO. _____
ACCOUNT NO. _____

05-403-8

35,000.00

The Delaware River & Bay Authority

CERTIFIED BY **BJT**

REQUESTED BY: George H FOWEL JR CERTIFIED BY: [Signature]
AT THE REQUEST OF THE BANK EXAMINERS, WE WILL RETAIN THE CHECK WHICH THIS VOUCHER COVERS WHEN PRESENTED FOR PAYMENT. SHOULD YOU REQUIRE THE CHECK, IT WILL BE NECESSARY TO PRESENT THIS VOUCHER.

RECEIVED CANCELLED CHECK AS COVERED BY ABOVE ITEM ON

SIGN HERE 07-03-1955

11051140311811

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000350000

Nº 1215

CHECK NO. 115

05-403-8

150.000.00

The Release Date and ACCESS

REQUESTED BY

CERTIFIED BY

AT THE REQUEST OF THE BANK EXAMINERS, WE WILL RETAIN THE CHECK WHICH THIS VOUCHER COVERS, WHEN PRESENTED FOR PAYMENT, SHOULD YOU REQUIRE THE CHECK, IT WILL BE NECESSARY TO PRESENT THIS VOUCHER.

RECEIVED CANCELLED CHECK AS COVERED BY ABOVE ITEM ON

SIGN HERE

05-403-8

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000150000000

THIS CHECK IS IN SETTLEMENT OF THE FOLLOWING INVOICES		
DATE		AMOUNT
TOTAL		
DISCOUNT		
NET		



SECURITY NATIONAL BANK

SOUTHOLD, N. Y.

No

50-3
21

DAY
TO THE
ORDER OF

$$O_{2N/2} / H_{2N/2}$$

OPTIONAL BOND
OFFICE 4

29 1973
AUL s/65,000

AND 4 re: _____ Doc
 100 K FFORE, SERU
 R. Power

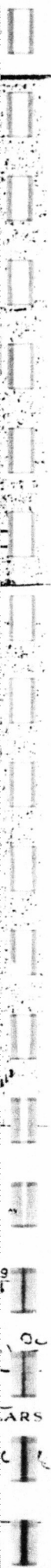
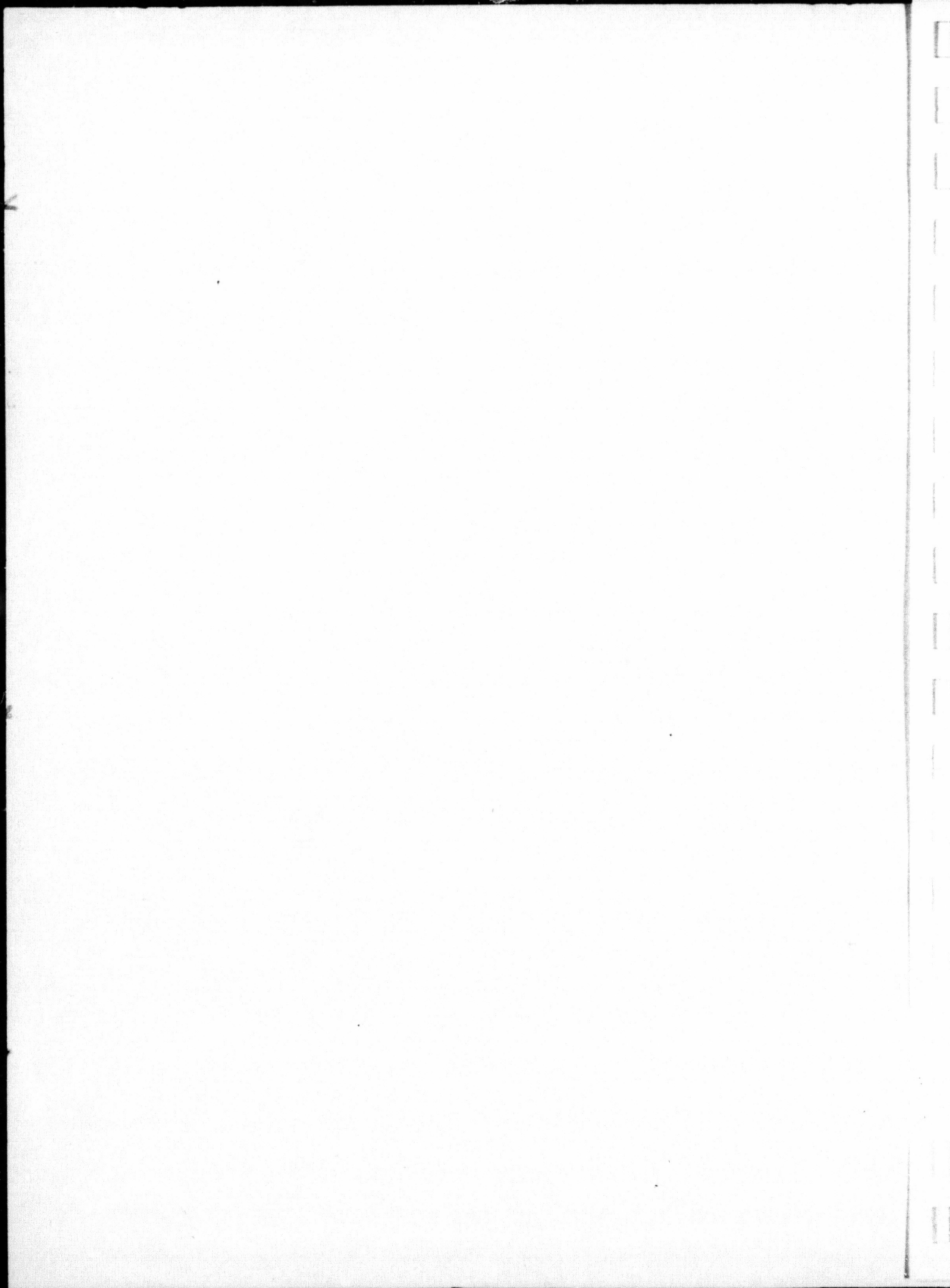




EXHIBIT 71





250 71

TOWN OF SHELTER ISLAND
44 NORTH FERRY ROAD
SHELTER ISLAND
NEW YORK 11964

Helen D. Smith: *Town Clerk*

Telephone: 749-1166

To Whom It May Concern:

The following resolution was duly adopted by the Town Board of the Town of Shelter Island on the 15th day of October, 1973, to wit:

WHEREAS, it is the opinion of the Town Board of the Town of Shelter Island that it will be a benefit to the residents of this Town to have additional ferry service from Eastern Long Island to Connecticut and New England, and

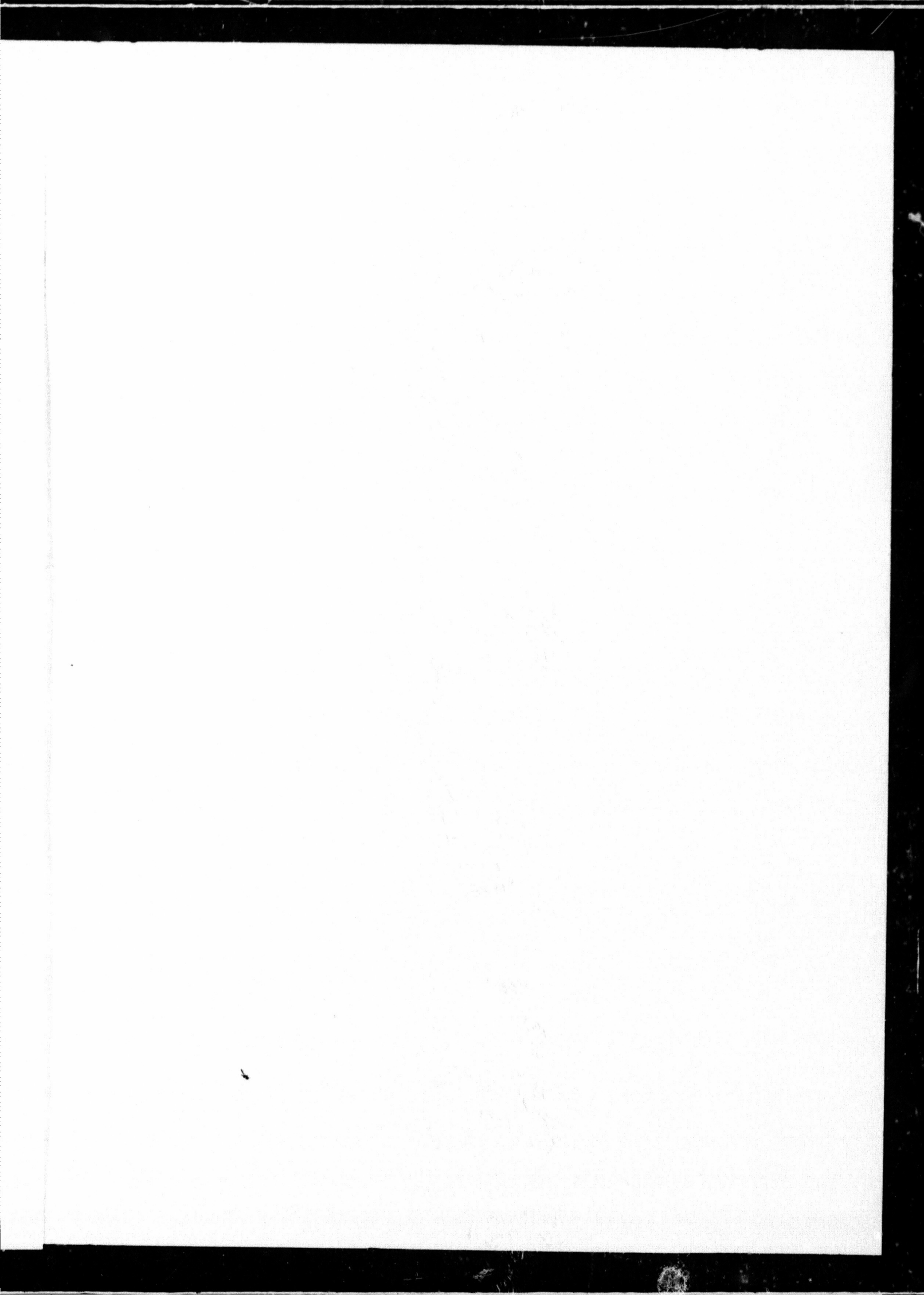
WHEREAS, Mascony Transport and Ferry Service has applied to the Interstate Commerce Commission for a franchise to operate a passenger and vehicle ferry between Greenport, New York and New London, Conn., and

WHEREAS, the said Interstate Commerce Commission is holding a public hearing thereon on October 29, 1973, now, Therefore

BE IT RESOLVED, that the Town Board of the Town of Shelter Island supports said application and directs that a certified copy of this resolution be forwarded to the Interstate Commerce Commission for consideration at said hearing.

Helen D. Smith
Helen D. Smith
Town Clerk

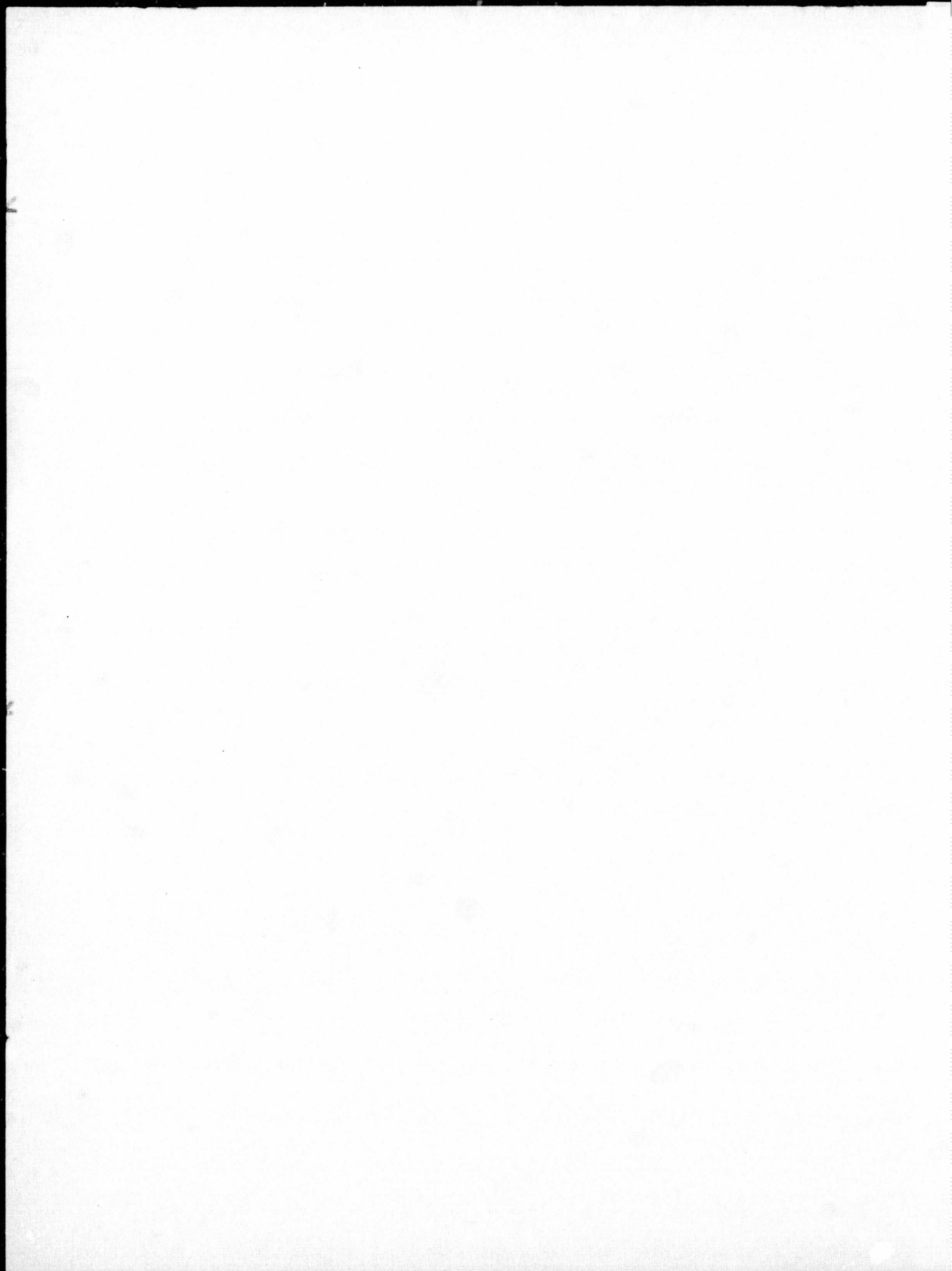
EXHIBIT 90



0675

Mabel Harris
Village Clerk, Mabel Harris

EXHIBIT 93



C-93

Before the
INTERSTATE COMMERCE COMMISSION

Docket No. W-1270
MASCONY TRANSPORT AND FERRY SERVICE, INC.

STATEMENT
OF
GERARD M. McALLISTER

My name is Gerard M. McAllister and I am Vice President of New London Freight Lines, Inc. (NLFL), a water carrier operating pursuant to authority issued by the Interstate Commerce Commission in Docket No. W-939. A copy of our authority, which we have held for some eighteen years is attached hereto as Appendix 1. Since acquiring its ICC authority NLFL has continuously provided regularly scheduled service in self-propelled vessels between Orient Point, N.Y., on the one hand, and, on the other, New London, Conn. NLFL holds itself out to transport foot passengers, passenger cars and their occupants, commercial vehicles up to and including large tractor trailer units carrying all types of commodities,

and stowed cargo or packages.

Because it serves as a connecting link between the important resort areas of eastern Long Island and southern New England the great preponderance of its traffic is accounted for by passenger vehicles on pleasure trips. A survey of NLFL traffic conducted in 1972 revealed that 80% of such traffic is made up of non-recurring passenger vehicles operated by tourists.

Because of the nature of its traffic, NLFL's operations have always been extremely cyclical with the bulk of its traffic concentrated in the summer months, a sharp decline during the fall, virtually no traffic during the winter months and then a buildup during the spring. This seasonal cycle is illustrated by Appendix 2 which is a monthly breakdown of our 1972 traffic. The seasonal variation in our traffic results in net operating losses in winter months and profits during the late spring, summer and early fall when we must make enough profit to offset our losses during the balance of the year. Attached as Appendix 3 is a summary by month of our profit or loss during each month of 1972 and the first eleven months of 1973 which illustrates this point. I would also like to point out that the net profit figures are somewhat misleading due to the fact that substantial managerial and overhead cost is not reflected in operating expenses. Although a modest assessment is made against NLFL for

general and administrative services provided by the parent company, no assessment has ever been made for officers salaries. If such an assessment had been made it would have offset net profits in most years.

Our heavy dependence upon tourist traffic even results in sharp cyclical variations in equipment utilization within a single day. For example, even during a peak period day such as Friday, July 27, 1973, when we had overflow traffic on many of our runs, we had a substantial number of empty spaces on many of our sailings during the same day. Attached hereto as Appendix 4 are the traffic summaries for each day from Friday, July 27, 1973, through Sunday, August 19, 1973, the virtual peak of the summer vacation season, which illustrate the same experience on most days.

Because of the erratic pattern of our traffic flow we are constantly challenged with a need to balance equipment capacity against traffic demand. Although we would like to operate enough equipment to satisfy peak demand during the summer months and during summer and holiday weekend peaks we have not been able to do so without incurring depreciation and other costs associated with equipment ownership which would offset our operating revenues by a substantial margin. This would result in a net loss operation and, eventually, the complete demise of service. We have always believed that our fundamental obligation is to insure

continued availability of as much service as can be provided without sustaining a substantial net annual loss. Prior to 1963 we carried traffic to and from the U. S. Department of Agriculture facility at Plum Island, N.Y., and the revenue from that service permitted us to operate all year between Orient Point and New London. In 1963 U.S.D.A. built its own terminals and vessels resulting in a sharp annual cut back in our revenues. Because of this loss of traffic and revenues we had to cut back our sailing season sharply in order to avoid unmanageable losses. Since 1963 we have gradually endeavored to extend our service with the ultimate objective of getting back to a full year-round schedule. In 1964 we operated from the end of May until the end of October. From 1965 through 1969 we extended our service into April. Since 1970 we have operated from March through January.

We have also increased the frequency of our sailings, particularly during the peak summer months. During this past season we operated three vessels. Two of these vessels have a capacity of 24 cars each for planning purposes but have carried more than that number of cars where the traffic consist included a large number of compact cars. The third vessel has a capacity of 18 cars for planning purposes but it also can carry a higher number when compact cars are being loaded. The sailing time between Orient Point and New London is approximately 90 minutes. The

two larger vessels, namely PLUM ISLAND and ORIENT, sail every two hours between 6:00 a.m. and 8:00 p.m. from New London and between 8:00 a.m. and 10:00 p.m. from Orient Point. The third vessel, CARIBBEAN FERRY, operated as a supplemental service at intervals interspersed between the sailings of PLUM ISLAND and ORIENT. The supplemental sailings of the CARIBBEAN FERRY were in addition to those shown on our 1973 schedule, a copy of which has been received in evidence as Exhibit 78.

Although we sincerely believe that NLFL has provided the best possible service to the traveling public consistent with the circumstances under which we have had to operate we want to make perfectly clear that we recognize that room for further improvement exists and that NLFL is firmly committed to making such improvement if it is permitted to continue to operate without unwarranted diversion of traffic.

We have worked closely with cognizant state transportation officials of both Connecticut and New York toward development of a program for continued improvement in our service. Unfortunately these efforts were severely hampered in recent years by the specter of a proposed bridge across Long Island Sound. Although protestants have attempted to depreciate the significance of the bridge threat, the Commission must recognize that no responsible management could reasonably make a multimillion dollar commitment in new ferry equipment with the prospect of a bridge looming over

it. For this reason we vigorously pressed for a resolution of the question of a cross-sound bridge and in November of 1972 through the auspices of Hon. Perry B. Duryea, Speaker of the New York State Assembly, we were advised that a final decision had been made abandoning the bridge proposal.

We immediately commissioned Robert A. Simons, the naval architect who enjoys a reputation in the maritime community as the foremost authority on ferry boat design and construction, to design the most suitable and efficient type and size of ferry boat for service between New London and Orient Point. We wish to emphasize that Mr. Simons was engaged for this undertaking many months before the Mascony application was filed with the Commission or known to us.

Early this spring Mr. Simons submitted plans for a ferry vessel capable of carrying 40 to 50 vehicles and 300 to 400 passengers with a cruising speed of 20 m.p.h. Each of these new vessels will represent an increase of some 40% above the vehicle capacity of our two larger vessels. Each vessel will cost in excess of \$1.8 million and the company plans to eventually build up to five of them as traffic warrants.

Design of the first ferry calls for a vessel of 217 feet, with a 42 foot beam and a 9 foot, 9 inch draft when fully loaded. Power will be furnished by two 1,025 h.p. GM diesel engines. A

bow thruster will add maneuverability and speed up docking operations, and the latest automated navigational, communications, and safety devices will increase efficiency. A passenger lounge for 300 persons and a snack bar are features of the vessel, which will be manned by a crew of seven union-member officers and seamen. The architect's rendition of the new vessel is attached hereto as Appendix 5.

Plans for the first of this new series of vessels have been submitted to the U. S. Maritime Administration with a request for government insured financing pursuant to the provisions of Title XI of the Merchant Marine Act of 1936. A commitment letter for such financing has recently been received from the Maritime Administration. That commitment letter and related correspondence from our investment banker concerning the financing details are attached hereto as Appendices 6 and 7 respectively. A contract for construction of the first vessel has been negotiated with Atlantic Marine, Inc., Ft. George Island, Florida, and will be executed as soon as approved by the Board of Directors. A copy of that contract is attached as Appendix 8.

Our decision to build these vessels is based upon a careful analysis of our past traffic and our projections of future traffic which indicate that: (1) better service can be provided with a fleet of moderate sized vessels of high speed than by a smaller number of very large vessels such as Mascony proposes

to operate since the former alternative permits greater frequency of service, more flexibility of operation, and less impact of individual vessel breakdown or maintenance; and (2) that operation of modern vessels which require manning levels of only 5 to 7 men will result in reduction in operating and maintenance cost sufficient to offset depreciation expense under 25 year government insured financing.

We were also instrumental in supporting legislation recently enacted by the New York State Legislature authorizing low cost, long term loans for the purpose of upgrading terminal facilities. We are currently developing plans to utilize such loans to improve our terminal facilities.

NLFL unequivocally assures the Commission that it would have been much further ahead on its construction and modernization program if it had not been for the existence of the very real threat of a cross-sound bridge. Now that that threat has been removed we will move forward vigorously if we are not confronted by large scale diversion of our traffic by Mascony which would be the unavoidable result of a grant of this application. We firmly believe that a responsive ferry service between Long Island and Connecticut is required by the public interest. We also believe, however, (and that belief is borne out by our traffic experience) that the potential traffic between the

eastern tip of Long Island and southeastern Connecticut cannot support two competing services. Thus, the decision to be made in this case is not whether there shall be one or two services available to the public but rather which one of two services shall be available. We submit that our plan holds the greater promise of viable, responsive, adequate service to the public and that the Commission, in furtherance of the public interest, must deny the instant application so that we may realistically go forward with our new construction program.

In making its evaluation of whether the public interest would best be served by the proposal of Mascony which has been presented to this Commission or by preservation of NLFL so that it can implement its plans for expansion and modernization of service we think it vitally important that the Commission give consideration to the relative qualifications of the two carriers. NLFL, as a subsidiary of McAllister Brothers, Inc., is part of an organization with four generations and more than 100 years of experience in marine transportation. It is an organization which operates more than 100 tug boats, barges, and other vessels with the knowledge, staff, resources, facilities and expertise to render the highest quality of service to the public if permitted to do so.

VERIFICATION

STATE OF NEW YORK)
) ss:
COUNTY OF SUFFOLK)

Gerard M. McAllister, having been duly sworn, deposes and says that he has read the foregoing statement, knows the contents thereof, and that the same are true as stated.

Land 11. W. K. K. K.

Subscribed and sworn to before
me this 29th day of December, 1973.

Amy C. Terry
Notary Public AMY C. TERRY

AMY C. TERRY
NOTARY PUBLIC, State of New York
No. 52-3954135
Qualified in Suffolk County

My Commission expires: Commission Expires March 30, 1975

W-939

W-939

New London Freight Lines, Inc.
19 Rector Street
New York, N. Y.

Third Amended Certificate Issued 8-17-55*

Public convenience and necessity require operation by New London Freight Lines, Inc., as a common carrier by self-propelled vessels, in interstate or foreign commerce in the transportation of (1) general commodities, automobiles with passengers, and tractors, trailers, and trucks, loaded and empty, between New London, Conn., on the one hand, and, on the other, Orient Point and Sag Harbor, Long Island, N. Y., (2) passengers between New London and Orient Point, and (3) passengers, and general commodities, including automobiles with passengers, and tractors, trailers, and trucks, loaded and empty, between Orient Point and East Marion, Southhold Township, N. Y., on the one hand and on the other Saybrook, Conn.

*Consolidates authority issued in W-939, W-939 (Sub-3), W-939 (Sub-4), and W-939 (Sub-7). (265 I.C.C. 321)

NEW LONDON FREIGHT LINES, INC.
BREAKDOWN FOR 1972 SEASON

Ferry commenced operation on 3/24/72 and ceased on 1/2/73 for 1972 season

<u>MONTH</u>	<u>REVENUE</u>	<u>PASSENGERS</u>	<u>AUTOMOBILES</u>
March	\$ 9,567.25	1,133	558
April	46,218.75	6,384	2,795
May	72,362.19	9,597	4,499
June	107,323.83	10,416	6,582
July	168,566.98	27,053.	9,814
Aug.	175,731.10	27,488	9,568
Sept.	118,149.50	13,905	7,056
Oct.	81,253.67	9,397	5,009
Nov.	38,382.00	4,825	2,262
Dec.	29,027.25	3,312	1,836
Jan. 73	1,418.75	178	90
Total	848,001.27	113,688	50,069

7/6/73

NEW LONDON FREIGHT LINES

OPERATING PROFIT OR LOSS
1972

	January	February	March	April	May	June	July	August	September	October	November	December
Operating Revenue	1809	--	9680	45907	71837	106625	167691	17472	117760	80843	38016	28817
Operating Expenses												
Direct Opr. Exp.	29456	14965	44613	45943	70860	75707	91212	90919	77819	65315	46141	50199
General & Adm.	4452	4145	6467	4389	5752	6738	5107	5764	4889	8787	4642	4905
Total Opr. Expenses	34008	19110	51080	50332	76612	82445	96319	96683	82708	74102	50783	55104
Operating Inc. (Loss)	(32199)	(19110)	(41400)	(4425)	(4775)	24180	71372	78037	35052	6741	(12767)	(26287)
Cummulative Revenue	1809	1809	11489	57396	129233	235858	403549	578269	696029	776872	814888	843705
Cummulative Expense	34008	53118	104198	154530	231142	313587	409906	506589	589297	663399	714182	769286
Cummulative Opr. P/L	(32199)	(51309)	(92709)	(97134)	(101909)	(77729)	(6357)	71680	106732	113473	100706	74419

OPERATING PROFIT OR LOSS
11 MONTHS 1973

	January	February	March	April	May	June	July	August	September	October	November
Operating Revenue	1415	--	12092	51648	72304	115551	189954	212116	134464	92690	58656
Operating Expenses											
Direct Opr. Exp.	25846	15324	39315	44808	79670	101925	133551	161182	137417	110519	66804
Gen. & Admin.	5624	7328	4599	6741	4552	9184	13973	5693	320	14344	14292
Total Opr. Expenses	31470	22652	43914	51549	84222	111109	147524	166875	137737	124863	81096
Operating Inc. [Loss]	[30055]	[22652]	[31822]	99	[11918]	4442	42430	45241	[3273]	[32173]	[22440]
Cumulative Revenue	1415	1415	13507	65155	137459	253010	442964	655080	789544	882234	940890
Cumulative Expense	31470	54122	98036	149585	233807	34916	492436	659314	797052	921915	1003011
Cumulative Opr. P/L	[30055]	[52707]	[84523]	[84430]	[96348]	[91906]	[49472]	[4234]	[7508]	[39681]	[62121]



NEW LONDON FREIGHT LINE, INC.

APPENDIX 4

DATE: Friday, July 27, 1973

TO: J. P.

FROM: NEILL A.

RECEIPTS:

New London Office	\$ 3,872.75
Orient Point Office	3,746.50

TOTAL \$ 7,619.25

1973	TOTAL TO DATE	\$ 163,114.84
1972	TOTAL TO DATE	144,186.38

TRAFFIC BREAKDOWN:

	<u>New London</u>	<u>Orient Point</u>	<u>TOTAL</u>
Trucks & Trailers	8	10	18
Automobiles	222	233	455
Passengers	653	578	1231
Miscellaneous	12	11	23

OPERATING: ORIENT, PLUM ISLAND and CARIBBEAN FERRY

DETAIL:

<u>New London</u>	<u>Orient Point</u>	<u># Round Trips</u>
1 TT BAGS	2 TT POTATOES	12
2 TT MT	1 TT MT	
1 ST LOBSTERS	1 ST LOBSTERS	
1 PANEL	1 ST FURNITURE	
3 PICK-UP	4 PICK-UP	
	1 ST SEAFOOD	

Comments:

See attached for breakdown on cars carried by ferries.

Included in NLR is \$94.50 parking for 30 cars.

cc: A. J.
G.M.
R.H.
J.P. III
E. TODD
F. BENZE
G. FARRELL

New London Freight Lines

Following is breakdown on cars carried by ferries on Friday, July 27, 1973

OUT OF NEW LONDON

	<u>ORIENT</u>	<u>PLUM ISLAND</u>	<u>CARIBBEAN FERRY</u>
1st trip	7	4	11
2nd "	26	24	13
3rd "	22	23	27
4th "	<u>24</u>	<u>25</u>	<u>19</u>
	79	76	67

OUT OF ORIENT POINT

1st trip	25	21	18
2nd trip	20	23	19
3rd trip	21	14	20
4th trip	<u>22</u>	<u>12</u>	<u>18</u>
	88	70	75

NEW LONDON FREIGHT LINES, INC.

DATE: Saturday, July 28, 1973

TO: J. P.

FROM: NEILL A.

RECEIPTS:

New London Office \$ 3,745.00

Orient Point Office 3,271.25

TOTAL \$ 7,016.25

1973 TOTAL TO DATE \$ 170,131.09

1972 TOTAL TO DATE 150,458.63

TRAFFIC BREAKDOWN:

	<u>New London</u>	<u>Orient Point</u>	<u>TOTAL</u>
Trucks & Trailers	5	4	9
Automobiles	235	197	432
Passengers	618	539	1157
Miscellaneous	39	39	78

OPERATING: ORIENT, PLUM ISLAND and CARIBBEAN FERRY

DETAIL:

<u>New London</u>	<u>Orient Point</u>	<u># Round Trips</u>
1 TT MT	1 ST SEAFOOD	12
1 ST MT	1 PANEL	
1 PANEL	2 PICK-UP	
2 PICK-UP		

Comments:

Included in NLR is \$16.50 parking for 7 cars.
Please see attached for breakdown on cars carried by ferries

cc: A. J.
G.M.
R.H.
J.P. III
E. TODD
F. BENZE
G. FARRELL

New London Freight Lines, c.

Following is breakdown on cars carried by ferries on Saturday, July 28, 1973:

OUT OF NEW LONDON

	<u>ORIENT</u>	<u>PLUM ISLAND</u>	<u>CARIBBEAN FERRY</u>
1st trip	10	16	16
2nd "	21	24	19
3rd "	26	22	18
4th "	<u>24</u>	<u>24</u>	<u>15</u>
	81	86	68

OUT OF ORIENT POINT

1st trip	23	21	18
2nd "	23	26	19
3rd "	4	19	18
4th "	<u>4</u>	<u>4</u>	<u>18</u>
	54	70	73

NEW LONDON FREIGHT LINES, INC.

DATE: Sunday, July 29, 1973

TO: J. P.

FROM: NEILL A.

RECEIPTS:

New London Office	\$ 3,482.75
Orient Point Office	4,454.50

TOTAL . . . \$ 7,937.25

1973 TOTAL TO DATE \$ 178,063.34

1972 TOTAL TO DATE 156,521.88

TRAFFIC BREAKDOWN:

	<u>New London</u>	<u>Orient Point</u>	<u>TOTAL</u>
Trucks & Trailers	6	14	20
Automobiles	196	238	434
Passengers	594	772	1366
Miscellaneous	24	24	48

OPERATING: ORIENT, PLUM ISLAND and CARIBBEAN FERRY

DETAIL:

<u>New London</u>	<u>Orient Point</u>	<u># Round Trips</u>
1 TT MT	1 TT CUCUMBERS	* 11
2 ST MT	1 TT POTATOES	
1 PANEL	1 TT MT	
2 PICK-UP	1 ST SEAFOOD	
	1 ST MT	
	4 PANEL	
	5 PICK-UP	

Comments:

cc: A. J. Included in New London Receipt is \$7.50 parking for 3 cars.
G.M. *4:30 p.m. out of New London and 6:00 p.m. out of Orient cancelled
R.H. due to radar trouble on Caribbean ferry and heavy fog.
J.P. !!!
E. TODD Please see attached for breakdown on cars carried by ferries.
F. BENZE
G. FARRELL

NEW LONDON FREIGHT LINES, INC.

Following is breakdown on cars carried by ferries on Sunday, July 29, 1972

OUT OF NEW LONDON

	<u>ORIENT</u>	<u>PLUM ISLAND</u>	<u>CARIBBEAN FERRY</u>
1st trip	7	5	8
2nd "	24	16	21
3rd "	23	25	18
4th "	<u>24</u>	<u>25</u>	<u>Cancelled</u>
	78	71	47

OUT OF ORIENT POINT

	<u>ORIENT</u>	<u>PLUM ISLAND</u>	<u>CARIBBEAN FERRY</u>
1st trip	18	26	21
2nd "	22	22	22
3rd "	20	22	21
4th "	<u>23</u>	<u>21</u>	<u>Cancelled</u>
	83	91	64

NEW LONDON FREIGHT LINE, INC.

DATE: Monday, July 30, 1973

TO: J. P.

FROM: NEILL A.

RECEIPTS:

New London Office \$ 3,297.25

Orient Point Office 3,735.50

TOTAL . . . \$ 7,032.75

1973 TOTAL TO DATE

\$ 185,101.09

1972 TOTAL TO DATE

163,423.73

TRAFFIC BREAKDOWN:

	<u>New London</u>	<u>Orient Point</u>	<u>TOTAL</u>
Trucks & Trailers	8	12	20
Automobiles	211	230	441
Passengers	453	515	968
Miscellaneous	19	23	42

OPERATING: ORIENT, PLUM ISLAND and CARIBBEAN FERRY

DETAIL:

New London

Orient Point

Round Trips

4 TT MT
4 PICK-UP

5 TT POTATOES
1 TT MT
1 ST FURNITURE
1 PANEL
4 PICK-UP

12

Comments:

Included in NLR is \$22.50 parking for 14 cars.

Attached please find breakdown on cars carried by ferries -

cc: A. J.

G.M.

R.H.

J.P. III

E. TODD

F. BENZE

G. FARRELL

New London Freight Lines, Inc.

Following is breakdown on cars carried by ferries on Monday, July 30/22

OUT OF NEW LONDON

	<u>ORIENT</u>	<u>PLUM ISLAND</u>	<u>CARIBBEAN FERRY</u>
1st trip	19	8	8
2nd "	19	23	6
3rd "	22	22	22
4th "	<u>21</u>	<u>21</u>	<u>20</u>
	81	74	56

OUT OF ORIENT

1st trip	24	24	20
2nd "	23	23	22
3rd "	9	21	20
4th "	<u>4</u>	<u>19</u>	<u>21</u>
	60	87	83

NEW LONDON FREIGHT LINES, INC.

DATE: Tuesday, July 31, 1973

TO: J. P.

FROM: NEILL A.

RECEIPTS:

New London Office \$ 3,080.25
Orient Point Office 2,890.50

TOTAL \$ 5,970.75

1973 TOTAL TO DATE \$ 191,371.84
1972 TOTAL TO DATE 168,566.98

TRAFFIC BREAKDOWN:

	<u>New London</u>	<u>Orient Point</u>	<u>TOTAL</u>
Trucks & Trailers	15	11	26
Automobiles	175	161	336
Passengers	396	373	769
Miscellaneous	15	17	32

OPERATING: ORIENT, PLUM ISLAND and CARIBBEAN FERRY

DETAIL:

<u>New London</u>	<u>Orient Point</u>	<u># Round Trips</u>
1 TT FURNITURE	6 TT POTATOES	*10
8 TT MT	1 ST FURNITURE	
1 ST LOBSTERS	2 ST MT	
1 ST MACHINERY	1 PANEL	
1 ST MT	1 PICK-UP	
3 PICK-UPS		

Comments:

Included in NLR is \$27. parking for 13 cars.
cc: A. J. * 7:30 a.m., 10:30 a.m. out of New London and 9a.m. and 12 noon
G.M. out of Orient cancelled due to radar trouble on Caribbean Ferry.
R.H. See attached for breakdown on cars.
J.P. III
E. TODD
F. BENZE
G. FARRELL

NEW LONDON FREIGHT LINES, INC.

FOLLOWING IS BREAKDOWN OF CARS CARRIED BY FERRIES: (7.31.73)

OUT OF NEW LONDON

	<u>ORIENT</u>	<u>PLUM ISLAND</u>	<u>CARIBBEAN FERRY</u>
1st trip	5	16	-
2nd "	17	24	-
3rd "	22	13	20
4th "	<u>14</u>	<u>21</u>	<u>23</u>
	58	74	43

OUT OF ORIENT

	<u>ORIENT</u>	<u>PLUM ISLAND</u>	<u>CARIBBEAN FERRY</u>
1st trip	23	25	-
2nd "	21	18	-
3rd "	18	11	22
4th "	<u>14</u>	<u>7</u>	<u>12</u>
	66	61	34

NEW LONDON FREIGHT LINES, INC.

DATE: Wednesday, 8/1/73

TO: J. P.

FROM: NEILL A.

RECEIPTS:

New London Office \$ 3,223.95

Orient Point Office 3,340.25

TOTAL . . . \$ 6,564.20

1973 TOTAL TO DATE \$ 6,564.20

1972 TOTAL TO DATE 5,180.00

TRAFFIC BREAKDOWN:

	<u>New London</u>	<u>Orient Point</u>	<u>TOTAL</u>
Trucks & Trailers	<u>16</u>	<u>16</u>	<u>32</u>
Automobiles	<u>180</u>	<u>190</u>	<u>370</u>
Passengers	<u>437</u>	<u>417</u>	<u>854</u>
Miscellaneous	<u>8</u>	<u>20</u>	<u>28</u>

OPERATING: ORIENT, PLUM ISLAND and CARIBBEAN FERRY

DETAIL:

New London

Orient Point

Round Trips

9 TT MT
2 ST MT
1 PANEL
4 PICK-UP

5 TT POTATOES
1 ST FURNITURE
1 ST SEAFOOD
5 ST MT
1 PANEL
3 PICK-UP

12

Comments:

Included in NLR is \$33. parking for 14 cars.
See attached for breakdown on cars.

cc: A. J.
G.M.
R.H.
J.P. III
E. TODD
F. BENZE
G. FARRELL

New London Freight Lines, Inc.

Following is breakdown on cars carried by ferries on 8/1/73:

OUT OF NEW LONDON

	<u>ORIENT</u>	<u>PLUM ISLAND</u>	<u>CARIBBEAN FERRY</u>
1st trip	9	3	6
2nd "	22	15	6
3rd "	19	20	22
4th "	<u>22</u>	<u>19</u>	<u>17</u>
	72	57	51

OUT OF ORIENT

1st trip	22	22	22
2nd "	20	19	22
3rd "	5	10	21
4th "	<u>6</u>	<u>6</u>	<u>15</u>
	53	57	80

NEW LONDON FREIGHT LINE, INC.

DATE: Thursday, August 2, 1973

TO: J. P.

FROM: NEILL A.

RECEIPTS:

New London Office \$ 3,028.25

Orient Point Office 2,851.00

TOTAL . . . \$ 5,879.25

1973 TOTAL TO DATE \$ 12,443.45

1972 TOTAL TO DATE 10,515.25

TRAFFIC BREAKDOWN:

	<u>New London</u>	<u>Orient Point</u>	<u>TOTAL</u>
Trucks & Trailers	<u>12</u>	<u>11</u>	<u>23</u>
Automobiles	<u>191</u>	<u>168</u>	<u>359</u>
Passengers	<u>402</u>	<u>360</u>	<u>762</u>
Miscellaneous	<u>4</u>	<u>12</u>	<u>16</u>

OPERATING: ORIENT, PLUM ISLAND and CARIBBEAN FERRY

DETAIL:

<u>New London</u>	<u>Orient Point</u>	<u># Round Trips</u>
9 TT MT	6 TT POTATOES	12
1 ST LOBSTERS	2 ST MT	
1 ST MT	3 PICK-UP	
1 PICK-UP		

Comments:

Included in NLR is \$27. parking for 7 cars.
See attached for breakdown on cars.

cc: A. J.
G.M.
R.H.
J.P. III
E. TODD
F. BENZE
G. FARRELL

New London Freight Lines, Inc.

Following is breakdown on cars carried by ferries on 8/2/73

OUT OF NEW LONDON

ORIENT

5 (6:00 a.m.)
20 (10:00 a.m.)
17 (2:00 p.m.)
24 (6:00 p.m.)

66

PLUM ISLAND

4 (8:00 a.m.)
21 (12:00 noon)
25 (4:00 p.m.)
25 (8:00 p.m.)

75

CARIBBEAN FERRY

3 (7:20 a.m.)
4 (10:15 a.m.)
22 (1:10 p.m.)
21 (4:15 p.m.)

50

OUT OF ORIENT

22 (8:00 a.m.)
11 (12:00 noon)
15 (4:00 p.m.)
9 (8:00 p.m.)

57

20 (10:00 a.m.)
23 (2:00 p.m.)
1 (6:00 p.m.)
4 (10:00 p.m.)

48

18 (8:38 a.m.)
20 (11:35 a.m.)
10 (2:40 p.m.)
15 (5:45 p.m.)

63

NEW LONDON FREIGHT LINES, INC.

DATE: Friday, August 3, 1973

TO: J. P.

FROM: NEILL A.

RECEIPTS:

New London Office	\$ 2,153.75
Orient Point Office	2,175.00

TOTAL \$ 4,328.75

1973 TOTAL TO DATE

\$ 16,772.20.....

1972 TOTAL TO DATE

.....15,480.00.....

TRAFFIC BREAKDOWN:

	<u>New London</u>	<u>Orient Point</u>	<u>TOTAL</u>
Trucks & Trailers	7	7	14
Automobiles	96	121	217
Passengers	388	364	752
Miscellaneous	28	9	37

OPERATING: PLUM ISLAND and CARIBBEAN FERRY

DETAIL:

New London

Orient Point

Round Trips

1 TT BAGS	1 TT POTATOES	*6
4 TT MT	2 TT MT	
1 ST LOBSTERS	1 ST POTATOES	
1 ST MT	1 ST MT	
	2 PICK-UP	

Comments:

Included in NLR is \$99. parking for 29 cars.

* Orient did not run at all due to no radar

Caribbean Ferry had radar trouble and made only 2 trips.

Please see attached for car breakdown.

cc: A. J.

G.M.

R.H.

J.P. III

E. TODD

F. BENZE

G. FARRELL

NEW LONDON FREIGHT LINES, INC.

FOLLOWING IS CAR BREAKDOWN FOR 8/3/73:

OUT OF NEW LONDON

ORIENT

PLUM ISLAND

CARIBBEAN FERRY

7 (6:00 a.m.)
26 (10:00 a.m.)
15 (3:00 p.m.)
23 (8:00 p.m.)

6 (7:35
19 (3:00

71

25

OUT OF ORIENT

24 (8:00 a.m.)
22 (12:00 noon)
9 (5:10 p.m.)
22 (10:10 p.m.)

22 (9:30
22 (5:10

77

44

NEW LONDON FREIGHT LINES, INC.

DATE: Saturday, August 4, 1973

TO: J. P.

FROM: NEILL A.

RECEIPTS:

New London Office	\$ 2,703.25
Orient Point Office	3,181.00

TOTAL \$ 5,884.25

1973 TOTAL TO DATE

\$ 22,656.45

1972 TOTAL TO DATE

21,367.75

TRAFFIC BREAKDOWN:

	<u>New London</u>	<u>Orient Point</u>	<u>TOTAL</u>
Trucks & Trailers	5	5	10
Automobiles	187	165	352
Passengers	517	426	943
Miscellaneous	16	17	33

OPERATING: ORIENT, PLUM ISLAND and CARIBBEAN FERRY

DETAIL:

<u>New London</u>	<u>Orient Point</u>	<u># Round Trips</u>
2 TT MT	2 ST FURNITURE	*9
1 PANEL	1 ST SEAFOOD	
2 PICK-UP	1 ST MT	
	1 PICK-UP	

Comments: *Due to, radar trouble, Orient made only 3 trips and Caribbean Ferry only 2

Included in NLR is \$37.50 parking for 9 cars.

cc: A. J. Please see attached for car breakdown.

G.M.

R.H.

J.P. III

E. TODD

F. BENZE

G. FARRELL

NEW LONDON FREIGHT LINES, INC.

FOLLOWING IS BREAKDOWN ON CARS: (8/4/73)

OUT OF NEW LONDON

ORIENT

21 (10:31 a.m.)
15 (2:55 p.m.)
23 (8:00 p.m.)

59

PLUM ISLAND

17 (6:00 a.m.)
25 (10:00 a.m.)
24 (1:55 p.m.)
23 (4:00 p.m.)

89

CARIBBEAN FERRY

16 (11:25 a.m.)
23 (3:10 p.m.)

39

OUT OF ORIENT

22 (12:35 p.m.)
22 (4:40 p.m.)
4 (10:00 p.m.)

48

23 (8:05 a.m.)
24 (12:00 noon)
23 (4:00 p.m.)
20 (8:00 p.m.)

90

22 (1:10 p.m.)
5 (5:32 p.m.)

27

NEW LONDON FREIGHT LINES, INC.

DATE: Sunday, August 5, 1973

TO: J. P.

FROM: NEILL A.

RECEIPTS:

New London Office \$ 4,599.25

Orient Point Office 3,687.25

TOTAL \$ 8,286.50

1973 TOTAL TO DATE

\$ 30,942.95

1972 TOTAL TO DATE

27,288.50

TRAFFIC BREAKDOWN:

	<u>New London</u>	<u>Orient Point</u>	<u>TOTAL</u>
Trucks & Trailers	6	16	22
Automobiles	198	244	442
Passengers	637	799	1436
Miscellaneous	16	28	44

OPERATING: PLUM ISLAND, ORIENT and CARIBBEAN FERRY

DETAIL:

<u>New London</u>	<u>Orient Point</u>	<u># Round Trips</u>
2 TT MT	2 TT SEAFOOD	*11
3 ST MT	1 TT POTATOES	
1 PICK-UP	2 ST SEAFOOD	
	1 ST FURNITURE	
	2 PANEL	
	8 PICK-UP	

Comments:

Included in NLR is \$12. parking for 4 cars.

cc: A. J. Due to radar trouble Caribbean Ferry only made 3 trips.

G.M. Please see attached for car breakdown.

R.H.

J.P. III

E. TODD

F. BENZE

G. FARRELL

NEW LONDON FREIGHT LINES, INC.

CAR BREAKDOWN FOR AUGUST 5, 1973

OUT OF NEW LONDON

ORIENT

9 (6:00 a.m.)
20 (10:00 a.m.)
24 (2:10 p.m.)
26 (6:10 p.m.)

79

PLUM ISLAND

8 (8:00 a.m.)
21 (12:00 noon)
27 (4:00 p.m.)
24 (8:00 p.m.)

80

CARIBBEAN FERRY

5 (7:25 a.m.)
21 (11:10 a.m.)
13 (2:10 p.m.)

39

OUT OF ORIENT

21 (8:00 a.m.)
20 (12:00 noon)
19 (4:05 p.m.)
21 (8:10 p.m.)

81

22 (10:00 a.m.)
21 (2:00 p.m.)
23 (6:00 p.m.)
26 (10:05 p.m.)

92

23 (9:13 a.m.)
23 (1:03 p.m.)
25 (4:50 p.m.)

71

NEW LONDON FREIGHT LINES, INC.

DATE: Monday, August 6, 1973

TO: J. P.

FROM: NEILL A.

RECEIPTS:

New London Office

\$ 3,284.25

Orient Point Office

3,892.75

TOTAL \$ 7,177.00

1973

TOTAL TO DATE

\$ 38,119.95

1972

TOTAL TO DATE

33,918.00

TRAFFIC BREAKDOWN:

	<u>New London</u>	<u>Orient Point</u>	<u>TOTAL</u>
Trucks & Trailers	11	12	23
Automobiles	203	232	435
Passengers	455	544	999
Miscellaneous	8	24	32

OPERATING: ORIENT, PLUM ISLAND and CARIBBEAN FERRY

DETAIL:

New London

Orient Point

Round Trips

7 TT MT
1 ST FISH
1 ST MT
2 PANEL

7 TT POTATO S
1 ST MT
2 PANEL
2 PICK-UP

*11

Comments:

Included in NLR is \$46.50 parking for 14 cars.
Due to radar trouble Caribbean Ferry only ran 3 trips.
Breakdown on cars - please see attached.

cc: A. J.
G.M.
R.H.
J.P. III
E. TODD
F. BENZE
G. FARRELL

NEW LONDON FREIGHT LINES

FOLLOWING IS BREAKDOWN ON CARS FOR 8/6/73:

OUT OF NEW LONDON

ORIENT

16 (8:20 a.m.)
19 (12:10 p.m.)
20 (4:00 p.m.)
22 (8:00 p.m.)

77

PLUM ISLAND

9 (6:00 a.m.)
23 (10:00 a.m.)
23 (2:00 p.m.)
23 (6:00 p.m.)

78

CARIBBEAN FERRY

8 (7:15 a.m.)
22 (11:05 a.m.)
18 (3:10 p.m.)

48

OUT OF ORIENT

22 (10:15 a.m.)
24 (2:05 p.m.)
18 (6:00 p.m.)
13 (10:00 p.m.)

77

23 (8:00 a.m.)
25 (12:00 noon)
19 (4:00 p.m.)
20 (8:00 p.m.)

87

22 (9:00 a.m.)
22 (1:05 p.m.)
24 (5:10 p.m.)

68

NEW LONDON FREIGHT LINES, INC.

DATE: Tuesday, August 7, 1973

TO: J. P.

FROM: NEILL A.

RECEIPTS:

New London Office	\$ 3,170.25
Orient Point Office	3,625.25

TOTAL . . . \$ 6,795.50

1973 TOTAL TO DATE

\$ 44,915.45
39,150.00

1972 TOTAL TO DATE

TRAFFIC BREAKDOWN:

	<u>New London</u>	<u>Orient Point</u>	<u>TOTAL</u>
Trucks & Trailers	17	16	33
Automobiles	177	201	378
Passengers	417	475	892
Miscellaneous	8	9	17

OPERATING: ORIENT, PLUM ISLAND and CARIBBEAN FERRY

DETAIL:

<u>New London</u>	<u>Orient Point</u>	<u># Round Trips</u>
12 TT MT	9 TT POTATOES	*11
1 ST FURNITURE	1 TT MT	
2 ST MT	1 ST FURNITURE	
2 PICK-UP	1 PANEL	
	4 PICK-UP	

Comments:

Included in NLR is \$31.50 parking for 11 cars.

*Caribbean Ferry only made 3 trips due to 1 engine being out.

cc: A. J. Please see attached for breakdown on cars.

G.M.

R.H.

J.P. III

E. TODD

F. BENZE

G. FARRELL

NEW LONDON FREIGHT LINES, INC.

Breakdown on cars for 8/7/73

OUT OF NEW LONDON

ORIENT

5 (6:00 a.m.)
23 (10:00 a.m.)
9 (2:00 p.m.)
19 (6:00 p.m.)

56

PLUM ISLAND

6 (8:00 a.m.)
18 (12:15 a.m.)
21 (4:00 p.m.)
21 (8:00 p.m.)

66

CARIBBEAN FERR

8 (7:40 a.m.)
26 (11:30 a.m.)
21 (3:25 p.m.)

55

OUT OF ORIENT

20 (8:00 a.m.)
23 (12:00 noon)
20 (4:00 p.m.)
13 (8:00 p.m.)

76

22 (10:00 a.m.)
24 (2:00 p.m.)
9 (6:00 p.m.)
6 (10:00 p.m.)

61

18 (9:32 a.m.)
22 (1:32 p.m.)
24 (5:30 p.m.)

64

NEW LONDON FREIGHT LINE INC.

DATE: Wednesday, August 8, 1973

TO: J. P.

FROM: NEILL A.

RECEIPTS:

New London Office	\$ 3,164.00
Orient Point Office	3,399.50

TOTAL \$ 6,563.50

1973	TOTAL TO DATE	\$ 51,478.95
1972	TOTAL TO DATE	44,139.00

TRAFFIC BREAKDOWN:

	<u>New London</u>	<u>Orient Point</u>	<u>TOTAL</u>
Trucks & Trailers	17	14	31
Automobiles	177	193	370
Passengers	434	437	871
Miscellaneous	18	33	51

OPERATING: ORIENT, PLUM ISLAND and CARIBBEAN FERRY

<u>DETAIL:</u>	<u>New London</u>	<u>Orient Point</u>	<u># Round Trips</u>
	10 TT MT	6 TT POTATOES	*11
	1 ST SEAFOOD	4 ST MT	
	2 ST MT	1 ST SEAFOOD	
	1 PANEL	1 PANEL	
<u>Comments:</u>	3 PICK-UP	2 PICK-UP	

Included in NLR is \$21. parking for 9 cars.

*Caribbean Ferry made only 3 trips due to engine trouble.

cc: A. J. Please see attached for car breakdown.

G.M.
R.H.
J.P. III
E. TODD
F. BENZE
G. FARRELL

NEW LONDON FREIGHT LINES, INC.

FOLLOWING IS BREAKDOWN ON CARS FOR 8/8/73:

OUT OF NEW LONDON

PLUM ISLAND

1 (6:00 a.m.)
22 (10:00 a.m.)
14 (2:00 p.m.)
16 (6:00 p.m.)

53

ORIENT

7 (8:00 a.m.)
13 (12:00 noon)
23 (4:04 p.m.)
21 (8:00 p.m.)

64

CARIBBEAN FERRY

10 (7:35 a.m.)
25 (11:05 a.m.)
25 (3:26 p.m.)

60

OUT OF ORIENT

21 (8:00 a.m.)
21 (12:00 noon)
16 (4:00 p.m.)
15 (8:00 p.m.)

73

19 (10:05 a.m.)
22 (2:00 p.m.)
6 (6:00 p.m.)
5 (10:00 p.m.)

52

23 (9:12 a.m.)
23 (1:05 p.m.)
22 (5:14 p.m.)

68

NEW LONDON FREIGHT LINES, INC.

DATE: Thursday, August 9, 1973

TO: J. P.
FROM: NEILL A.

RECEIPTS:
New London Office \$ 3,252.25
Orient Point Office 3,509.75

TOTAL \$ 6,762.00

1973 TOTAL TO DATE \$ 58,240.95
1972 TOTAL TO DATE 49,097.25

TRAFFIC BREAKDOWN:

	<u>New London</u>	<u>Orient Point</u>	<u>TOTAL</u>
Trucks & Trailers	10	21	31
Automobiles	184	187	371
Passengers	451	442	893
Miscellaneous	29	25	54

OPERATING: ORIENT, PLUM ISLAND and CARIBBEAN FERRY

<u>DETAIL:</u>	<u>New London</u>	<u>Orient Point</u>	<u># Round Trips</u>
	6 TT MT	4 TT POTATOES	*11
	1 ST LOBSTERS	1 ST SEAFOOD	
	3 ST MT	1 ST FURNITURE	
		3 ST US NAVY EQUIPMENT	
		1 PANEL	
		11 PICK-UP	

Comments:

Included in New London Receipt is \$25.50 parking for 18 cars.
Only 3 trips made by Caribbean Ferry due to engine trouble.

cc: A. J.
G.M.
R.H.
J.P. III
E. TODD
F. BENZE
G. FARRELL

NEW LONDON FREIGHT LINES, INC.

CAR BREAKDOWN FOR THURSDAY, AUGUST 9, 1973

OUT OF NEW LONDON

CARIBBEAN FERRY

7 (7:35 a.m.)
21 (11:05 a.m.)
21 (2:40 p.m.)

49

PLUM ISLAND

4 (8:00 a.m.)
20 (12:00 noon)
16 (4:00 p.m.)
27 (8:00 p.m.)

67

ORIENT

5 (6:00 a.m.)
24 (10:00 a.m.)
21 (2:00 p.m.)
18 (6:00 p.m.)

68

OUT OF ORIENT

20 (9:15 a.m.)
22 (12:55 p.m.)
22 (4:40 p.m.)

64

19 (10:00 a.m.)
6 (2:00 p.m.)
13 (6:00 p.m.)
7 (10:00 p.m.)

45

22 (8:00 a.m.)
25 (12:00 noon)
13 (4:00 p.m.)
18 (8:00 p.m.)

78

NEW LONDON FREIGHT LINES, INC.

DATE: Friday, August 10, 1973

TO: J. P.

FROM: NEILL A.

RECEIPTS:

New London Office	\$ 3,884.25
Orient Point Office	3,953.00
	7,837.25
TOTAL	\$

1973

TOTAL TO DATE

\$ 66,078.20

1972

TOTAL TO DATE

54,823.77

TRAFFIC BREAKDOWN:

	<u>New London</u>	<u>Orient Point</u>	<u>TOTAL</u>
Trucks & Trailers	7	10	17
Automobiles	202	234	436
Passengers	643	612	1255
Miscellaneous	34	24	58

OPERATING: ORIENT, PLUM ISLAND and CARIBBEAN FERRY

DETAIL:

New London

2 TT MT
3 ST MT
1 PANEL
1 PICK-UP

Orient Point

3 TT POTATOES
2 ST MT
4 PICK-UP
1 TRACTOR

Round Trips

*11

Comments:

Included in NLR is \$73.50 parking for 26 cars.
*Only 3 trips made by Caribbean Ferry due to engine trouble.

cc: A. J.
G.M.
R.H.
J.P. III
E. TODD
F. BENZE
G. FARRELL

NEW LONDON FREIGHT LINES

CAR BREAKDOWN FOR FRIDAY, AUGUST 10, 1973

OUT OF NEW LONDON

ORIENT

13 (8:00 a.m.)
18 (12:00 noon)
22 (4:00 p.m.)
25 (8:00 p.m.)

78

PLUM ISLAND

10 (6:00 a.m.)
22 (10:00 a.m.)
13 (2:00 p.m.)
19 (6:00 p.m.)

64

CARIBBEAN FERRY

18 (7:25 a.m.)
22 (11:05 a.m.)
20 (3:10 p.m.)

60

OUT OF ORIENT

22 (10:00 a.m.)
17 (2:00 p.m.)
17 (6:00 p.m.)
22 (10:00 p.m.)

78

24 (8:00 a.m.)
22 (12:00 noon)
21 (4:00 p.m.)
23 (8:00 p.m.)

90

22 (9:15 a.m.)
22 (1:00 p.m.)
22 (5:20 p.m.)

66

UCL

NEW LONDON FREIGHT LINES, INC.

DATE: Saturday, August 11, 1973

TO: J. P.
FROM: NEILL A.

RECEIPTS: New London Office \$ 3,940.25
Orient Point Office 3,534.50

TOTAL \$ 7,474.75

1973 TOTAL TO DATE

\$ 73,552.95

1972 TOTAL TO DATE

61,128.52

TRAFFIC BREAKDOWN:

	<u>New London</u>	<u>Orient Point</u>	<u>TOTAL</u>
Trucks & Trailers	5	5	10
Automobiles	229	220	449
Passengers	638	555	1193
Miscellaneous	25	24	49

OPERATING: ORIENT, PLUM ISLAND and CARIBBEAN FERRY

<u>DETAIL:</u>	<u>New London</u>	<u>Orient Point</u>	<u># Round Trips</u>
	2 TT MT	2 ST SEAFOOD	*11
	1 ST SEAFOOD	1 PANEL	
	1 ST MT	2 PICK-UP	
	1 PICK-UP		

Comments:

Included in NLR is \$34.50 parking for 17 cars.

*Only 3 trips made by Caribbean Ferry due to engine trouble.

cc: A. J.
G.M.
R.H.
J.P. III
E. TODD
F. BENZE
G. FARRELL

NEW LONDON FREIGHT LINES

CAR BREAKDOWN FOR SATURDAY, AUGUST 11, 1973

OUT OF NEW LONDON

ORIENT

19 (6:00 a.m.)
22 (10:00 a.m.)
15 (2:00 p.m.)
22 (6:00 p.m.)

78

PLUM ISLAND

16 (8:00 a.m.)
25 (12:00 noon)
20 (4:00 p.m.)
23 (8:00 p.m.)

84

CARIBBEAN FERRY

21 (7:35 a.m.)
23 (11:20 a.m.)
23 (3:15 p.m.)

67

OUT OF ORIENT

23 (8:00 a.m.)
24 (12:00 noon)
24 (4:00 p.m.)
18 (8:00 p.m.)

89

22 (10:00 a.m.)
22 (2:00 p.m.)
13 (6:00 p.m.)
11 (10:00 p.m.)

68

22 (9:17 a.m.)
24 (1:17 a.m.)
17 (5:12 p.m.)

63

NEW LONDON FREIGHT LINES, INC.

DATE: Sunday, August 12, 1973

TO: J. P.
FROM: NEILL A.

RECEIPTS:

New London Office	\$ 4,099.25
Orient Point Office	5,250.92
TOTAL	\$ 9,350.17

1973 TOTAL TO DATE
1972 TOTAL TO DATE

\$ 82,903.12
67,506.27

TRAFFIC BREAKDOWN:

	New London	Orient Point	TOTAL
Trucks & Trailers	8	13	21
Automobiles	236	253	489
Passengers	660	970	1630
Miscellaneous	30	41	71

OPERATING: ORIENT, PLUM ISLAND CARIB FERRY

DETAIL:

New London	Orient Point	# Round Trips
1 TT MT	2 TT POTATOES	12
1 ST FURNITURE	1 ST FURNITURE	
3 ST MT	1 ST MACHINERY	
2 PANEL	1 ST SEAFOOD	
1 PICK-UP	1 ST POTATOES	
	6 PANEL	
	1 PICK-UP	

Comments:

cc: A. J. Included in NLR is \$16.50 parking for 7 cars.
G.M.
R.H.
J.P. III
E. TODD
F. BENZE
G. FARRELL

NEW LONDON FREIGHT LINES, INC.

BREAKDOWN OF CARS FOR AUGUST 12, 1973

OUT OF NEW LONDON

ORIENT

17 (8:00 a.m.)
22 (12:00 noon)
24 (4:00 p.m.)
21 (8:00 p.m.)

84

PLUM ISLAND

6 (6:00 a.m.)
21 (10:00 a.m.)
23 (2:00 p.m.)
23 (6:00 p.m.)

73

CARIB FERRY

12 (7:20 a.m.)
23 (10:40 a.m.)
22 (2:10 p.m.)
22 (5:15 p.m.)

79

OUT OF ORIENT

17 (10:00 a.m.)
19 (2:10 p.m.)
24 (6:15 p.m.)
19 (10:00 p.m.)

79

19 (8:00 a.m.)
22 (12:00 noon)
24 (4:15 p.m.)
23 (8:00 p.m.)

88

23 (9:05 a.m.)
23 (12:30 p.m.)
18 (3:45 p.m.)
22 (6:48 p.m.)

86

NEW LONDON FREIGHT LINES, INC.

DATE: Monday, August 13, 1973

TO: J. P.

FROM: NEILL A.

RECEIPTS: New London Office \$ 3,482.00
 Orient Point Office 4,273.00

TOTAL \$ 7,755.00

1973 TOTAL TO DATE \$ 90,658.12
1972 TOTAL TO DATE 74,605.42

TRAFFIC BREAKDOWN:

	<u>New London</u>	<u>Orient Point</u>	<u>TOTAL</u>
Trucks & Trailers	<u>10</u>	<u>11</u>	<u>21</u>
Automobiles	<u>217</u>	<u>253</u>	<u>470</u>
Passengers	<u>494</u>	<u>628</u>	<u>1122</u>
Miscellaneous	<u>5</u>	<u>18</u>	<u>23</u>

OPERATING: ORIENT, PLUM ISLAND and CARIBBEAN FERRY

<u>DETAIL:</u>	<u>New London</u>	<u>Orient Point</u>	<u># Round Trips</u>
	6 TT MT	7 TT POTATOES	12
	1 ST MT	1 TT SEAFOOD	
	3 PICK-UP	1 ST SEAFOOD	
		2 PANEL	

Comments: Included in New London Receipt is \$18. parking for 10 cars.

cc: A. J.
G.M.
R.H.
J.P. III
E. TODD
F. BENZE
G. FARRELL

NEW LONDON FREIGHT LINES

BREAKDOWN ON CARS FOR MONDAY, AUGUST 13, 1973

OUT OF NEW LONDON

ORIENT

11 (6:00 a.m.)
20 (10:00 a.m.)
22 (2:00 p.m.)
21 (6:00 p.m.)

74

PLUM ISLAND

8 (8:00 a.m.)
24 (12:00 noon)
22 (4:00 p.m.)
24 (8:00 p.m.)

78

CARIB FERRY

4 (7:15 a.m.)
20 (10:15 a.m.)
20 (1:35 p.m.)
21 (4:55 p.m.)

65

OUT OF ORIENT

23 (8:00 a.m.)
23 (12:00 noon)
18 (4:00 p.m.)
18 (8:00 p.m.)

82

25 (10:00 a.m.)
24 (2:00 p.m.)
18 (6:00 p.m.)
13 (10:00 p.m.)

80

23 (8:35 a.m.)
22 (11:42 a.m.)
23 (3:15 p.m.)
23 (6:35 p.m.)

91

NEW LONDON FREIGHT LINE, INC.

DATE: Tuesday, August 14, 1973

TO: J. P.

FROM: NEILL A.

RECEIPTS:

New London Office	\$ <u>3,235.50</u>
Orient Point Office	<u>3,832.50</u>
TOTAL	\$ <u>7,068.00</u>

1973	TOTAL TO DATE	\$ <u>97,726.12</u>
1972	TOTAL TO DATE	<u>80,393.92</u>

TRAFFIC BREAKDOWN:

	<u>New London</u>	<u>Orient Point</u>	<u>TOTAL</u>
Trucks & Trailers	<u>12</u>	<u>7</u>	<u>19</u>
Automobiles	<u>189</u>	<u>232</u>	<u>421</u>
Passengers	<u>439</u>	<u>548</u>	<u>987</u>
Miscellaneous	<u>21</u>	<u>34</u>	<u>55</u>

OPERATING: ORIENT, PLUM ISLAND and CARIB FERRY

<u>DETAIL:</u>	<u>New London</u>	<u>Orient Point</u>	<u># Round Trips</u>
	8 TT MT	4 TT POTATOES	12
	1 ST FURNITURE	2 ST MT	
	1 ST PAPER	1 PICK-UP	
	1 ST MT		
	1 PICK-UP		

Comments:

Included in New London Receipt is \$30. parking for 15 cars.

cc: A. J.
G.M.
R.H.
J.P. III
E. TODD
F. BENZE
G. FARRELL

NEW LONDON FREIGHT LINES, INC.

BREAKDOWN ON CARS FOR 8/14/73

OUT OF NEW LONDON

ORIENT

3 (8:00 a.m.)
22 (12:05 p.m.)
20 (4:05 p.m.)
23 (8:00 p.m.)
68

OUT OF ORIENT

20 (10:00 a.m.)
23 (2:15 p.m.)
18 (6:05 p.m.)
5 (10:00 p.m.)

66

PLUM ISLAND

7 (6:05 a.m.)
21 (10:00 a.m.)
17 (2:05 p.m.)
17 (6:00 p.m.)
62

25 (8:00 a.m.)
22 (12:20 p.m.)
17 (4:05 p.m.)
13 (8:00 p.m.)

77

CARIB FERRY

5 (7:15 a.m.)
12 (10:20 a.m.)
20 (1:25 p.m.)
22 (4:45 p.m.)
59

23 (8:40 a.m.)
22 (11:45 a.m.)
22 (3:10 p.m.)
22 (6:33 p.m.)

89

NEW LONDON FREIGHT LINES, INC.

DATE: 15 August 1974
Wednesday

TO: J. P.
FROM: NEILL A.

RECEIPTS:
New London Office \$ 2425.75*
Orient Point Office 2777.50

TOTAL \$ 5203.25

1973 TOTAL TO DATE \$102,929.37
1972 TOTAL TO DATE 85,434.67

TRAFFIC BREAKDOWN:

	<u>New London</u>	<u>Orient Point</u>	<u>TOTAL</u>
Trucks & Trailers	13	19	32
Automobiles	143	145	288
Passengers	334	354	688
Miscellaneous	10	14	24

OPERATING: ORIENT, PLUM ISLAND, and CARIB FERRY

<u>DETAIL:</u>	<u>New London</u>	<u>Orient Point</u>	<u># Round Trips</u>
	7 TT NT	8 TT POTATOES	9
	1 ST LOBSTERS	1 TT MACHINERY	
	2 ST MT	4 ST MT	
	2 PANEL	6 PICKUP	
	1 PICKUP		

Comments:

m/v PLUM ISLAND CANCELLED FOR 12 Noon, 4 PM and 8 PM out of New London and 2 PM, 6 PM and 10 PM out of Orient due to mechanical difficulties.

cc: A. J.

G.M.

R.H.

J.P. III

E. TODD

F. BENZE

G. FARRELL

*-included in New London Receipts is \$16.50 parking for 7 cars.

NEW LONDON FREIGHT LINES INC.

BREAKDOWN ON CARS FOR 8/15/73

OUT OF NEW LONDON

ORIENT

4 (6 AM)

22 (10 AM)

23 (2 PM)

15 (6 PM)

64

PLUM ISLAND

13 (8 AM)

Cancelled (12 N)

Cancelled (4 PM)

Cancelled (8 PM)

13

CARIB FERRY

5 (7:20 AM)

15 (10:25 AM)

23 (1:25 PM)

23 (5:05 PM)

66

OUT OF ORIENT

ORIENT

22 (8 AM)

10 (12 N)

14 (4:15 PM)

4 (8 PM)

50

PLUM ISLAND

17 (10 AM)

Cancelled (2 PM)

Cancelled (6 PM)

Cancelled (10 PM)

17

CARIB FERRY

10 (8:40 AM)

21 (11:43 AM)

23 (3:15 PM)

24 (6:50 PM)

78

NEW LONDON FREIGHT LINE, INC.

DATE: Thursday, 8/16/73

TO: J. P.

FROM: NEILL A.

RECEIPTS:

New London Office	\$ 3,129.75
Orient Point Office	3,577.25

TOTAL . . . \$ 6,707.00

1973 TOTAL TO DATE

\$ 109,636.37

1972 TOTAL TO DATE

90,972.15

TRAFFIC BREAKDOWN:

	<u>New London</u>	<u>Orient Point</u>	<u>TOTAL</u>
Trucks & Trailers	16	14	30
Automobiles	174	210	384
Passengers	414	492	906
Miscellaneous	32	18	50

OPERATING: ORIENT, PLUM ISLAND and CARIBBEAN FERRY

DETAIL:

New London

Orient Point

Round Trips

1 TT BAGS
8 TT MT
4 ST MT
3 PICK-UP

6 TT POTATOES
1 TT MT
1 ST SEAFOOD
1 ST POTATOES
2 ST MT
1 PANEL
2 PICK-UP

*11

Comments:

cc: A. J. Included in NLR is \$58.50 parking for 21 cars.
G.M. One trip cancelled for Carib Ferry due to engine trouble.
R.H.
J.P. III
E. TODD
F. BENZE
G. FARRELL

NEW LONDON FREIGHT LINES, INC.

BREAKDOWN ON CARS FOR 8/16/73

OUT OF NEW LONDON

ORIENT

9 (6 AM)
22 (10 AM)
16 (2 PM)
21 (6:05 PM)

68

PLUM ISLAND

7 (8 AM)
20 (12:20 PM)
17 (4:40 PM)
20 (10:06 PM)

64

CARIB FERRY

7 (7:15 AM)
14 (10:40 PM)
21 (2:35 PM)

42

OUT OF ORIENT

27 (8 AM)
21 (12 N)
15 (4:10 PM)
18 (8:25 PM)

81

26 (10 AM)
22 (2:30 PM)
9 (7:05 PM)
6 (11 PM)

63

22 (8:55 AM)
22 (12:55 PM)
22 (4:40 PM)

66

NEW LONDON FREIGHT LINES, INC.

Friday, August 17, 1973

DATE:

TO: J. P.

FROM: NEILL A.

RECEIPTS:

New London Office	\$ 3,712.25
Orient Point Office	3,988.50

TOTAL \$ 7,700.75

1973	TOTAL TO DATE	\$ 117,337.12
1972	TOTAL TO DATE	96,226.62

TRAFFIC BREAKDOWN:

	<u>New London</u>	<u>Orient Point</u>	<u>TOTAL</u>
Trucks & Trailers	13	8	21
Automobiles	198	239	437
Passengers	606	641	1247
Miscellaneous	16	23	39

OPERATING: ORIENT, PLUM ISLAND and CARIB FERRY

<u>DETAIL:</u>	<u>New London</u>	<u>Orient Point</u>	<u># Round Trips</u>
	1 TT LUMBER	2 TT POTATOES	*11
	5 TT MT	1 ST SEAFOOD	
	1 ST LOBSTERS	3 PANEL	
	1 ST MT	2 PICK-UP	
<u>Comments:</u>	4 PICK-UP		
	1 PANEL		

cc: A. J. Included in New London Receipt is \$118.50 parking for 34 cars.
G.M. Carib Ferry made only 3 trips due to engine trouble.
R.H.
J.P. III
E. TODD
F. BENZE
G. FARRELL

NEW LONDON FREIGHT LINES, INC.

BREAKDOWN ON CARS FOR 8/17/73

OUT OF NEW LONDON

PLUM ISLAND

6 (6 AM)
19 (10:20 AM)
19 (2:30 PM)
22 (7 PM)

66

ORIENT

6 (8:10 AM)
20 (12 N)
22 (4PM)
24 (8:05 PM)

72

CARIB FERRY

14 (7:35 AM)
21 (11:10 AM)
25 (3 PM)

60

OUT OF ORIENT

22 (8:10 AM)
24 (12:18 PM)
22 (4:55 PM)
18 (9:25 PM)

86

24 (10:05 AM)
23 (2:05 PM)
25 (6:15 PM)
17 (10:25 PM)

89

21 (9:16 AM)
24 (1 PM)
19 (5:30 PM)

64

NEW LONDON FREIGHT LINES, INC.

DATE: Saturday, August 18, 73

TO: J. P.

FROM: NEILL A.

<u>RECEIPTS:</u>	New London Office	\$ 4,067.75
	Orient Point Office	3,605.25

TOTAL . . . \$ 7,673.00

1973	TOTAL TO DATE	\$ 125,010.12
1972	TOTAL TO DATE	102,282.62

TRAFFIC BREAKDOWN:

	<u>New London</u>	<u>Orient Point</u>	<u>TOTAL</u>
Trucks & Trailers	7	13	20
Automobiles	241	208	449
Passengers	660	560	1220
Miscellaneous	42	32	74

OPERATING: ORIENT, PLUM ISLAND and CARIE FERRY

<u>DETAIL:</u>	<u>New London</u>	<u>Orient Point</u>	<u># Round Trips</u>
	4 TT MT	1 TT POTATOES	*11
	1 ST FURNITURE	3 ST FURNITURE	
	1 ST MT	1 ST SEAFOOD	
	1 PICK-UP	1 ST MT	
		1 PANEL	
		6 PICK-UP	
<u>Comments:</u>			

Comments:

Included in NLR is \$21. parking for 12 cars.
Carib Ferry ran 3 trips due to engine trouble.

cc: A. J. G.M.
R.H.
J.P. III
E. TODD
F. BENZE
G. FARRELL

NEW LONDON FREIGHT LINES, INC.

BREAKDOWN ON CARS FOR 8/18/73

OUT OF NEW LONDON

ORIENT

19 (8 AM)
21 (12 N)
21 (4 PM)
24 (8 PM)

85

PLUM ISLAND

19 (6 AM)
24 (10 AM)
21 (2 PM)
26 (6 PM)

90

CARIB FERRY

22 (7:30 AM)
22 (11 AM)
22 (3:20 P.M.)

66

OUT OF ORIENT

24 (10:15 AM)
22 (2:05 PM)
15 (6:15 PM)
5 (10:05 PM)

66

20 (8:25 AM)
23 (12:40 PM)
23 (5:20 PM)
13 (9:25 PM)

79

20 (9:05 AM)
22 (12:40 PM)
21 (5:42 PM)

63

NEW LONDON FREIGHT LINES, INC.

DATE: Sunday, August 19, 1973

TO: J. P.

FROM: NEILL A.

RECEIPTS: New London Office \$ 3,613.27
Orient Point Office 4,478.75

TOTAL . . . \$ 8,092.02

1973 TOTAL TO DATE \$ 133,102.14

1972 TOTAL TO DATE 108,591.87

TRAFFIC BREAKDOWN:

	<u>New London</u>	<u>Orient Point</u>	<u>TOTAL</u>
Trucks & Trailers	6	9	15
Automobiles	189	238	427
Passengers	637	837	1474
Miscellaneous	23	36	59

OPERATING: ORIENT, PLUM ISLAND & CARIB FERRY

<u>DETAIL:</u>	<u>New London</u>	<u>Orient Point</u>	<u># Round Trips</u>
	2 TT MT	1 TT SEAFOOD	*11
	2 ST MT	2 TT POTATOES	
	2 PICK-UP	1 ST SEAFOOD	
		1 PANEL	
		3 PICK-UP	
		1 TRACTOR	

Comments:

cc: A. J. Included in NLR is \$28.50 parking for 6 cars.
G.M. Carib Ferry made only 3 trips due to engine trouble.
R.H.
J.P. III.
E. TODD
F. BENZE
G. FARRELL

NEW LONDON FREIGHT LINES, INC.

BREAKDOWN ON CARS FOR 8/19/73

OUT OF NEW LONDON

ORIENT

1 (8 AM)
18 (12 N)
20 (4:15 PM)
21 (8:10 PM)

60

PLUM ISLAND

11 (6 AM)
23 (10:15 AM)
18 (2:30 PM)
19 (6:40 PM)

71

CARIB FERRY

13 (7:30 AM)
22 (10:50 AM)
23 (2:40 PM)

58

OUT OF ORIENT

25 (10 AM)
13 (2 PM)
25 (6:20 PM)
14 (10:10 PM)

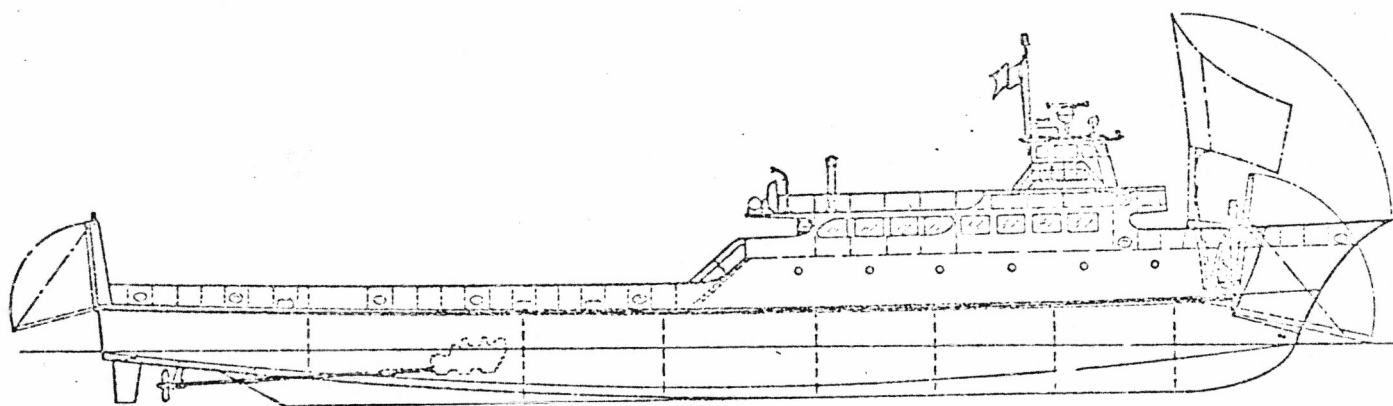
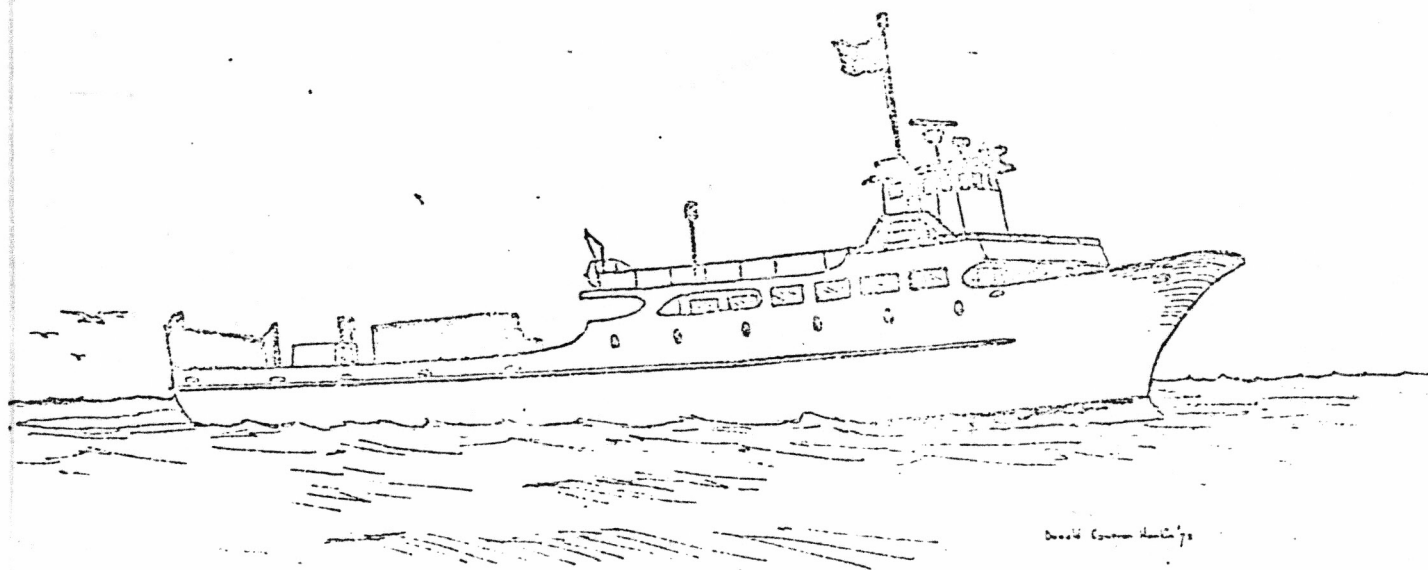
77

23 (8:10 AM)
24 (12 N)
25 (4:40 PM)
25 (9:05 PM)

97

22 (9:13 AM)
22 (12:47 PM)
20 (5:25 PM)

64



BL



APPENDIX 6
U.S. DEPARTMENT OF COMMERCE
Maritime Administration
Washington, D.C. 20235

M521

NOV 5 1973

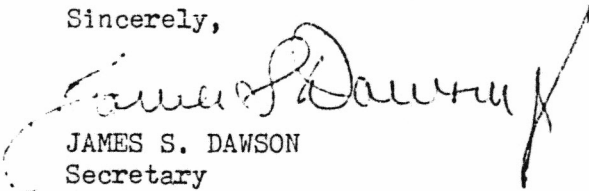
New London Freight Lines, Inc.
17 Battery Place
New York, New York 10004

Gentlemen:

Please refer to our Commitment Letter, dated October 21, 1973, in which you were notified of the Action of the Assistant Secretary for Maritime Affairs approving your application for Title XI assistance in the construction of a passenger-auto ferry.

Our letter was inadvertently dated October 27th although the actual date of the letter and the Action described therein was October 29, 1973. Please correct your records accordingly. All other conditions of the Commitment Letter remain unchanged.

Sincerely,


JAMES S. DAWSON
Secretary



U.S. DEPARTMENT OF COMMERCE
Maritime Administration
Washington, D.C. 20235

521

October 27, 1973

New London Freight Lines, Inc.
17 Battery Place
New York, New York 10004

Gentlemen:

With respect to the application of New London Freight Lines, Inc. (Shipowner) dated March 7, 1973 for a guarantee of obligations (excluding the construction period) under Title XI of the Merchant Marine Act, 1936, as amended (Act), to aid in financing the construction of a passenger auto-ferry (Vessel), you are advised that the Assistant Secretary for Maritime Affairs (Secretary) on this date took the following actions:

I. Approved the Shipowner, pursuant to Section 1104(b)(1) of the Act and subject to compliance with the requirements herein stated, as possessing the ability, experience, financial resources, and other qualifications necessary to the adequate operation and maintenance of the Vessel which serves as security for the guarantee.

II. Approved the design of the Vessel and found that under the provisions of Section 1104(b)(2) of the Act, the Vessel, if constructed substantially in accordance with the Maritime Administration's approved plans and specifications, is eligible for a mortgage which does not exceed 75% of the actual cost of construction.

III. Determined that pursuant to Sections 1101(f) and 1104(b) of the Act the actual cost of construction of the Vessel, subject to adjustments as determined by the Chief, Office of Subsidy Administration and subject to the amendment of the Construction Contract in form and substance satisfactory to the Maritime Administration (including standard Maritime participation clauses), for the purposes of the action, to be as follows:

Shipyard Price	\$1,249,000
Owner Furnished Equipment and Services	478,700
Design and Supervision	50,000
Changes and Extras	50,000
Interest & Commitment Fees	<u>70,000</u>
Total Actual Cost	\$1,897,700

On this basis, fixed the maximum amount of the proposed guarantee of obligations commitment at \$1,423,000 which amount does not exceed 75% of the above actual cost of the Vessel.

IV. Excluded from actual cost any foreign components installed on the Vessel, if suitable domestic components, as determined by the Maritime Administration, are available.

V. Found under Section 1104(d) of the Act that the property or project with respect to which the guaranteed obligations will be issued is in his opinion, economically sound.

VI. Required that for the purposes of the guarantee closing, the Shipowner have resources available to meet the financial requirements determined in accordance with G.O. 29, Revised for working capital and net worth (estimated to be \$208,000 and \$555,500, respectively).

VII. Required that for the purposes of the negative covenants in the Security Agreement, the working capital and net worth shall be the G.O. 29, Revised requirements or such other amounts as may be required by the Chief, Office of Subsidy Administration.

VIII. Required that the Title XI documents provide for a Reserve Fund pursuant to Section 298.8(j) of G.O. 29 Revised.

IX. Required (1) a covenant in the Title XI documents requiring the consent of the Secretary for any new leases, charters, etc., if the Shipowner is below the negative covenant requirements and (2) a covenant limiting the payment of dividends by the Shipowner to not more than 40 percent of the previous year's net earnings.

X. Required the amortization of the proposed guarantee of obligations to be not less than equal semi-annual installments of principal over a period of 25 years from the date of delivery of the Vessel.

XI. Required the Shipowner and McAllister Brothers Inc. to submit (1) satisfactory evidence of United States citizenship within 60 days after the date of this Letter Commitment to Guarantee Obligations (Commitment) or this Commitment will expire unless such period is extended by the Secretary and (2) evidence of continuing United States citizenship 10 days prior to the Commitment to Guarantee Obligations closing and the mortgage closing.

XII. Fixed the Shipowner's investigation fee, authorized by Section 1104(f) of the Act at \$2,403.75 (less the \$100 filing fee previously paid) which amount is to be paid forthwith.

XIII. Required the Title XI guarantee fee authorized by Section 1104(e) of the Act to be determined in accordance with the criteria approved by the Maritime Administrator on March 18, 1970 and amended by the Assistant Secretary of Commerce for Maritime Affairs on January 28, 1971.

XIV. Required satisfactory evidence of vessel insurance at least 10 days prior to the mortgage closing.

XV. Required the Shipowner meet all other requirements of the applicable statutes and regulations, all as determined by the Chief, Office of Subsidy Administration.

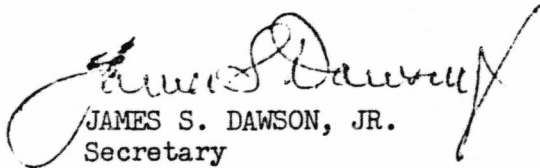
XVI. Required that the proposed construction contract in form and substance satisfactory to the Maritime Administration between the Shipowner and the shipbuilder for the construction of the Vessel be executed within 6 months after the date of this Commitment. If said Construction Contract is not executed within that 6 months time period this Commitment will terminate, unless the period is extended by the Secretary.

XVII. Authorized the Chief, Office of Subsidy Administration to approve the execution of all appropriate documents, to be submitted 60 days prior to the applicable closing, and to take such other actions as may be necessary to effectuate the purposes of the recommendation.

4

XVIII. Authorized the execution of this letter to the Shipowner, which will constitute a Commitment subject to the conditions set forth herein.

Sincerely,


JAMES S. DAWSON, JR.
Secretary



U.S. DEPARTMENT OF COMMERCE
Maritime Administration
Washington, D.C. 20235

October 2, 1973

New London Freight Lines
Attention: Mr. Brent Lynch
17 Battery Place
New York, New York 10004

Gentlemen:

In connection with your Title XI application for guarantee of obligations for the construction of a 217ft. Passenger - Vehicle Vessel, we have reviewed the specifications prepared by Robert A. Simons dated August, 1973, and have the following comments:

1. The comments contained in our letter to you dated June 8, 1973 relating to items of foreign manufacture still apply. The costs of the following must be excluded from final actual cost unless it can be shown that suitable equipment of U.S. manufacture is not available:

Item 105, Page 82	Frydenbo Steering Gear
Item 106, Page 86	Brunvoll Bow Thruster
Item 157, Page 137	Decca Radiotelephone
Item 158, Page 137	Decca Echosounder
Item 163, Page 138	Decca Radar

2. The following are suggested to comply with the "Water Quality Improvement Act of 1970":
 - a) Installation of oil content meters to monitor oily overboard discharges and capability of holding oil bilge water.
 - b) Installation of alarms for fuel oil overflow piping with indicators at filling station(s) and remote control to prevent overflows.
3. Installation of smoke indicators and alarms for heating boiler stack are suggested to monitor emissions.

Sincerely,

T. J. Chwirut

T.J. CHWIRUT
Office of Ship Construction

A. G. Becker & Co.INCORPORATED
ESTABLISHED 1893

Chicago · New York · San Francisco · Boston

MEMBERS
NEW YORK STOCK EXCHANGE, INC.
AMERICAN STOCK EXCHANGE
MIDWEST STOCK EXCHANGE
PACIFIC COAST STOCK EXCHANGE55 Water Street
New York, N. Y. 10041
Telephone 212 / 747-4000

November 12, 1973

Mr. J. Brent Lynch
McAllister Brothers, Inc.
17 Battery Place
New York, N.Y. 10004

Dear Brent:

I have attached a schedule of yearly debt service payments for the issuance of \$1,423,000 of Title XI bonds. We have assumed an interest rate of 8.00%, which approximates today's rate. (You can ignore the accrued interest column.) We have assumed the issuance of these bonds on January 1, 1974, so that during 1974 you have one semi-annual payment of principal.

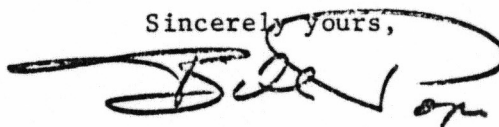
I have also attached a list of estimated costs associated with the issuance of your Title XI securities, including the total fees you have paid MARAD. We find that the costs associated with a Title XI transaction generally approximate 1.00 - 1.50% of the amount of the issue. In this case, the issue is small so that we reach the higher end of this range.

The indenture trustee will charge an annual fee of \$600.00 to \$1,000.00 in addition to the closing fee listed here. You will also, as you know, have an annual MARAD guarantee premium of $\frac{1}{4}$ - $\frac{1}{2}\%$ of the average principal amount outstanding during construction (if the Title XI is used for construction financing) and $\frac{1}{2}$ - 1% during the period the sinking fund bonds are outstanding following delivery of the vessel.

Please give me a call if you need additional information or clarification.

Best regards.

Sincerely yours,



William M. Pope, Jr.
Assistant Vice President

WMP:lrt
encl.

McAllister Brothers, Inc.

Schedule of Estimated Costs
Title XI Financing

<u>Description</u>	<u>Estimated Amount</u>
Printing	\$ 5,000.00
Legal	7,500.00
A.G. Becker Debt Placement Fee	7,115.00
Indenture Trustee Fee	1,000.00 (one time)
	750.00 (annual)
MARAD Investigation Fees	<u>2,403.75</u>
Total Initial Costs	\$23,018.75

A.G. Becker & Co.
INCORPORATED

McAllister Brothers, Inc.
Schedule of Payments \$1,423,000 Ferryboat Loan

YEAR	ACCUMULATED INTEREST EXPENSE	CASH INTEREST EXPENSE	PRINCIPAL REPAYMENT	DEBT SERVICE	ENDING BALANCE
1974	112701.60	56920.00	28460.00	85380.00	1394540.00
1975	108158.00	110124.00	56920.00	167394.00	1337620.00
1976	103504.40	105871.20	56920.00	162791.20	1280700.00
1977	99040.80	101217.60	56920.00	158237.60	1223780.00
1978	94487.20	96764.00	56920.00	153684.00	1166860.00
1979	89933.60	92210.40	56920.00	149130.40	1109940.00
1980	85380.00	87656.80	56920.00	144576.80	1053020.00
1981	80826.40	83103.20	56920.00	140023.20	996100.00
1982	76272.80	78549.60	56920.00	135469.60	939180.00
1983	71719.20	73996.00	56920.00	130916.00	882260.00
1984	67165.60	69442.40	56920.00	126362.40	825340.00
1985	62612.00	64888.80	56920.00	121808.80	768420.00
1986	58058.40	60335.20	56920.00	117255.20	711500.00
1987	53504.80	55781.60	56920.00	112701.60	654580.00
1988	48951.20	51228.00	56920.00	108148.00	597660.00
1989	44397.60	46674.40	56920.00	103594.40	540740.00
1990	39844.00	42120.80	56920.00	99040.80	483820.00
1991	35290.40	37567.20	56920.00	94487.20	426900.00
1992	30736.80	33013.60	56920.00	89933.60	369980.00
1993	26183.20	28460.00	56920.00	85380.00	313060.00
1994	21629.60	23906.40	56920.00	80826.40	256140.00
1995	17076.00	19352.80	56920.00	76272.80	199220.00
1996	12522.40	14799.20	56920.00	71719.20	142300.00
1997	7968.80	10245.60	56920.00	67165.60	85380.00
1998	3415.20	5692.00	56920.00	62612.00	28460.00
1999	0.00	1138.40	28460.00	28460.00	0.00
TOTAL	1451460.00	1451460.00	1423000.00	1423460.00	

ASSUMPTIONS:

Interest:

8.0%, payable semi-annually.

Debt Service:

Level principal payments.

SALES AND CONSTRUCTION CONTRACT

THIS AGREEMENT, made and executed in duplicate this 12th day of September, 1973, by and between ATLANTIC MARINE INC., a Florida corporation, hereinafter called AMI, having its principal office at Ft. George Island, Florida, and NEW LONDON FREIGHT LINES, INC., hereinafter called "BUYER".

W I T N E S S E T H

WHEREAS, ATLANTIC MARINE INC. agrees to sell to NEW LONDON FREIGHT LINES, INC. and NEW LONDON FREIGHT LINES, INC. agrees to purchase said vessel hereinafter described, from ATLANTIC MARINE INC., and

WHEREAS, ATLANTIC MARINE, INC. agrees to construct said vessel under the terms and conditions hereinafter set forth in this Contract,

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, and for other good and valuable considerations, it is hereby mutually agreed between the parties hereto as follows:

ARTICLE I - SCOPE OF THE WORK

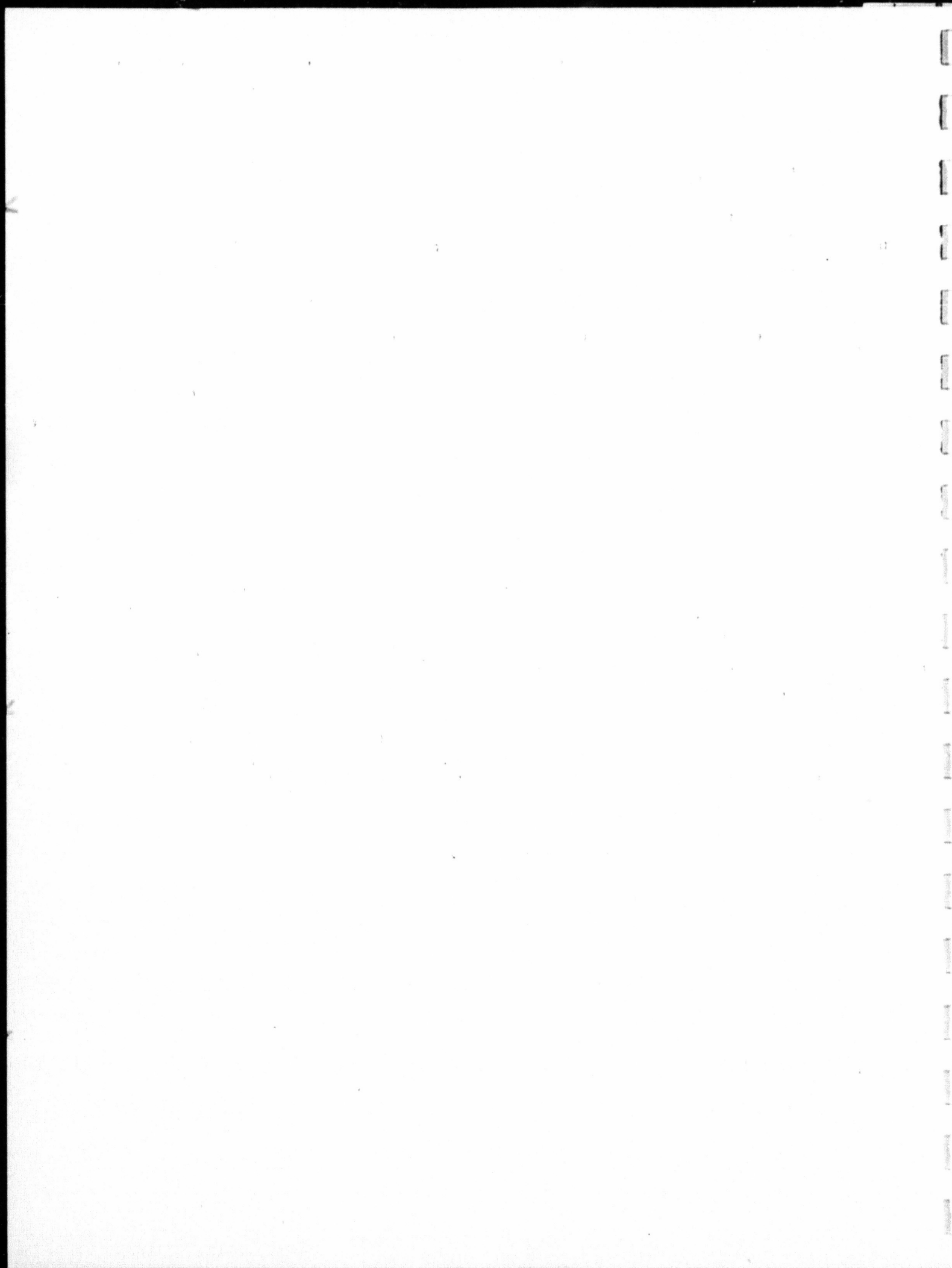
AMI covenants and agrees to furnish all necessary labor and materials to partially construct and/or build for BUYER, the following described vessel:

One (1) 217' passenger-vehicle vessel, partially completed as described below, in accordance with the specifications, dated August, 1973, and contract drawings listed below, as prepared by Robert A. Simons, naval architect:

<u>DRAWING NUMBER</u>	<u>DATED</u>
1226-2	4/03/73
1226-5	4/03/73
1226-6	4/03/73
1226-7	4/18/73
1226-8A	3/10/73
1226-9	4/23/73
1226-10	8/15/73
1226-11	8/22/73
1226-12	8/30/73
1226-13	9/8/73

The following portions, only, of the specifications, are to be accomplished. All remaining work is to be done by others:

(more)



Item #1

Items #3 through #21 and #23

Items #25 through #60

Items #62 and #63

Item #65 to be accomplished as outlined in the specifications as to the cleaning and painting of the exterior of the hull from the keel to the main deck level: All other steel surfaces, other than fuel oil tanks, to be sandswept and one (1) coat of primer applied.

Item #67 to be accomplished only as the item refers to the steel construction.

Item #69 to be accomplished only as the item refers to the fabrication and erection of the mast. Paragraph three (3) of this item will not be accomplished.

Items #76 and #77.

Item #78 steel construction only will be accomplished. Paragraph (2) will not be accomplished.

Items #79 and #80.

Item #82 name P&S bow, Name and hailing port on stern to be beaded in and painted, only,

Items #83, #84, and #85.

Items #87 and #88 only as they may apply to this partial construction.

Item #89 fuel and lube oil to be furnished, as necessary, to run engines and gears to check alignment of engines, gears and shafts, only.

Item #90 only as it may apply to this partial construction.

Items #91 and #93.

Items #94, #95, and 96 pilot house and engine room booth controls will not be furnished or installed. No spare parts will be furnished.

Items #98 through #104.

Item #105 The owner shall furnish the two (2) steering motors, the contractor shall install both motors. This is the only work that will be accomplished on this item.

Item #106 the bow thruster shall be furnished by the owner. The contractor will otherwise accomplish this item.

Items #107 through #109.

Items #116, #119, #120 and #121. Item #120 has temporary pipe in lieu of heat exchanger.

Item #123 The WABCO controls, multitube, air whistle and whistle piping will not be furnished or installed. The contractor will otherwise accomplish this item.

Item #127.

Item #129 as the item may apply to this partial construction.

Item #131.

The vessel is to be partially constructed in accordance with the Plans and Specifications attached hereto and by this reference incorporated herein and made a part hereof, with the exception of the

BUYER's supplies as referred to hereinafter.

As a part of the machinery and equipment of the vessel to be sold and delivered hereinunder, the following equipment, hereinafter called BUYER's supplies shall be delivered free of costs to AMI at its shipyard at 8503 McKenna Road, Ft. George Island, Florida, according to the delivery schedule to be affixed by separate schedule to this Contract:

BUYER's supplies:

Bow Thruster in Item #106 of specifications

Two (2) Steering Motors in Item #105 of specifications.

AMI agrees to install the BUYER's supplies in the vessel and such cost of installation is included in the price provided, in Article III.

It is understood and agreed that by executing this Contract, BUYER has approved and agreed to the Plans and Specifications attached hereto and incorporated herein by reference, whether or not BUYER's signature appears thereon.

ARTICLE II - TIME OF COMPLETION

The construction of the vessel to be built under this Contract shall be commenced within a reasonable time after the execution of this Contract and shall be completed within eleven months, except as prevented by force majeure, wars, strikes, fires, floods, transportation shortages, delays in receipt of material, accidents or other contingencies beyond the control of AMI, in which event the time of completion and delivery of the vessel shall be extended accordingly.

In case of delay of delivery of the vessel and said delay is caused by reasons attributable to the Contractor and such reasons are not excused or relieved under the provisions of this Contract as herein set forth, the CONTRACTOR agrees to pay to the BUYER liquidated damages for delay of delivery at the following rate:

- (A) The CONTRACTOR shall be given a grace period equal to
Sixty (60) working days.
- (B) After the 60th working day after the scheduled date of
delivery, liquidated damages of One Hundred (\$100.00)
Dollars in United States currency, per day, per vessel.
- (C) It is understood and agreed, however, that the total amount
of liquidated damages shall not exceed Six Thousand
(\$6,000.00) Dollars in United States currency.

In the event the BUYER fails to furnish the BUYER's supplies in sufficient time with the result that the delivery of the vessel is affected thereby, the scheduled date of delivery shall be extended by the period of any delay of the vessel resulting from the delay in delivering such BUYER's supplies and the above liquidated damages shall not be applied to such period of time. It is understood and agreed that the CONTRACTOR shall be under a duty to continue all other work permissible on the vessel during any such period of permissible delay.

Notwithstanding the completion date hereinabove mentioned, AMI shall not be liable for any default hereunder or delay in the construction of the vessel, or the performance of the terms, covenants and conditions on AMI's part to be performed hereunder if such default, delay or non-performance are caused by or are due to any contingency beyond AMI's control or caused by the delay or default or non-performance of any supplier or manufacturer with whom AMI may contract to furnish and deliver any materials, equipment, machinery or labor necessary in the construction of the vessel, including wars, sabotage, bombing, fires, strikes, riots, floods, insurrection, earthquakes, Acts of God, hurricanes, delays in transportation, blockades, embargoes, acts, demands or requirements of the United States Government or any State or political subdivision thereof, or occasioned by command, restraint, condemnation or acquisition of the United States Government or any political subdivision thereof; provided, however, that as soon as any such cause is removed and no longer exists, except as may be hereinafter otherwise set forth, AMI shall thereupon continue, carry out and perform the covenants and conditions of this Contract on AMI's part to be performed.

ARTICLE III - THE CONTRACT SUM

The BUYER shall pay for the construction of the vessel subject to any additions and deductions mutually agreed upon in writing between the parties hereto, in currency of the United States of America, the sum of ONE MILLION TWO HUNDRED FORTY NINE THOUSAND DOLLARS (\$1,249,000.00) in accordance with the progress payment schedule set forth in Article IV of this Contract.

ARTICLE IV - PROGRESS PAYMENT SCHEDULE

The BUYER shall make payments for the construction of said vessel in accordance with this Contract as follows:

- (1) Ten percent (10%) of the total contract sum upon the signing of this Contract. . . \$124,900.00
- (2) Fifteen percent (15%) of each vessel at the time of commencement of erection . . . \$187,350.00
- (3) Twenty-five percent (25%) of each vessel at the time the engine is set in the vessel. \$312,250.00
- (4) Twenty-five percent (25%) of each vessel at the time the vessel is launched. . . . \$312,250.00
- (5) The balance of each vessel, when each vessel is ready for delivery by AMI to the BUYER. \$312,250.00

Additional or extra items requested by the BUYER over and above the said plans and specifications must be agreed upon by both BUYER and AMI in writing prior to commencement of work and payment of such items shall be made when each vessel is ready for delivery.

If the BUYER shall direct additional items not included in the attached Specifications and should it be necessary for installation of such additional items, the delivery of the vessel shall be extended for the required period of time to be mutually agreed upon by the parties.

It is understood and agreed that final payment shall be due and payable prior to departure of the vessel from the shipyard of AMI at Ft. George Island, Florida.

AMI shall give BUYER written notice, at least ten (10) days in advance of the due date of each progress payment as above set forth, with such notice to be by cable, registered or certified mail, as provided in Article XIV of this Contract.

ARTICLE V - TITLE TO VESSELS

The vessel being constructed under this Contract shall remain the property of AMI at all times until BUYER shall have paid the full contract price and all extra charges, if any, to AMI. AMI provides the normal builder's risk coverage at all times covering each vessel under this Contract for the account of itself and/or the BUYER with any loss payable to AMI or BUYER as their respective interests may appear. Insurance coverage for BUYER's supplies at the request of BUYER in writing will be secured by AMI in the amount requested by BUYER and for the account of BUYER.

ARTICLE VI - INSPECTION AND ACCEPTANCE

BUYER shall have the right, at any time, to inspect the vessel and the progress being made in the construction thereof and further shall have the right to have any person of his or its choosing make inspection and examination of the vessel in various stages of construction by a qualified person to make such inspection. Should BUYER or such qualified person, if any so chosen, should find that the work is not being performed in accordance with the Plans and Specifications, he shall immediately notify AMI in writing, setting forth the nature and character of the complaint in sufficient detail so as to fully apprise AMI of same. If the parties cannot settle the dispute between themselves, then, on written demand of either party, each shall select a competent marine surveyor or notify the other of the surveyor so selected within five (5) days of such demand. The surveyors shall first select a competent and disinterested umpire and failing for five (5) days to agree upon such umpire, then on request of AMI or BUYER, such umpire shall be selected by the then presiding Chief Circuit Judge of the Fourth Judicial Circuit, in and for Duval County, Florida. The marine surveyors and the umpire shall then settle the dispute and shall have the discretion to impose the costs upon the losing party or divide it between the parties on any terms which may appear just. Unless any complaint is so reduced in writing, it shall be conclusively presumed that the vessel is being constructed in a manner satisfactory to BUYER, and BUYER shall be precluded from thereafter from raising any objections thereto.

ARTICLE VII - COMPLETION AND DELIVERY

Upon completion of this contract, the partially completed vessel shall be delivered to BUYER as set forth hereinabove. AMI shall give BUYER written notice of the completion of the contract and BUYER shall, within five (5) days after receipt of such notice, accept delivery of said vessel. Failure on the part of BUYER to accept delivery within five (5) days after receipt of the written notice of completion, shall constitute conclusive constructive acceptance of delivery of said vessel. At the time of delivery of the vessel, AMI shall execute and deliver to BUYER a Master Carpenter Certificate and BUYER shall pay all monies due by reason of this Contract; provided, however, that delivery or constructive delivery to BUYER shall not be evidence or taken to mean all monies due under this Contract have been so paid in full. Upon delivery of the

vessel to BUYER, AMI shall be relieved of all liability and responsibility, if any, thereto, except as may otherwise be herein provided. In the event that there is any dispute as to the condition of the vessel at the time of delivery, such dispute shall be settled in the manner provided for in Article VI of this Contract; provided, however, BUYER shall have given AMI adequate written notice of such dispute or complaint prior to the expiration of the five (5) day period which BUYER has to accept delivery of said vessel after receiving notice of completion as set forth in this Paragraph. After the expiration of said five (5) day period, BUYER shall be precluded from questioning the condition of said vessel, having by his or its action, conclusively and constructively accepted delivery of same.

ARTICLE VIII - DELAY OF PAYMENTS

It is agreed that time is of the essence of this Contract and that the failure of BUYER to timely pay to AMI the sums of money agreed to be paid hereunder, at the times and in the manner above set forth, shall, at AMI's option, without notice, extend the agreed completion date by a number of days equal to the number of days the BUYER was in default on the timely payments of such progress payments. BUYER further agrees to pay to AMI interest at the rate of ten percent (10%) per annum on any sums of money not timely paid, with interest being computed from the due date of such progress payment until the date on which payment is actually received by AMI.

In the event that BUYER shall fail to timely make the progress payments above set forth, and such default shall continue for ten (10) days or more after said due date, then in such event, AMI, in addition to any other legal remedies and recourse available at the time, at its option, may terminate and cancel this Contract, retaining all money paid to it by BUYER, as liquidated damages, for BUYER's breach of this Contract, and in the event that AMI retains such payments as liquidated damages, it shall be in lieu of any other legal remedy or recourse available to AMI under the terms of this Contract.

ARTICLE IX - CASUALTY TO SHIPYARD OR VESSEL

In the event that AMI's shipyard facilities be destroyed or substantially damaged by reason of fire, windstorm, hurricane, explosion or any other casualty, and/or should the vessel under construction, under the terms of this Contract, be destroyed or substantially damaged by reason of such casualty or catastrophe, AMI shall have the option to

terminate this Contract by promptly refunding to BUYER all sums of money theretofore paid to AMI by BUYER, and upon such payment, AMI and BUYER shall have no further obligations or liabilities to each other under the terms of this Contract.

ARTICLE X - WARRANTY

AMI warrants that all parts of the vessel fabricated by it to be free from defects in workmanship and materials and should any part of the vessel fabricated by AMI fail as a result of defects in workmanship or materials within six (6) months after the delivery of the vessel to BUYER, AMI will replace or repair such parts as may so fail, provided that the said vessel be brought to AMI's shipyard for such replacement or repair.

Where, because of the geographical distances involved, it would be impracticable to return the vessel to AMI for repairs or replacements under this Warranty, the BUYER may, after reasonable notice to AMI in order to allow AMI, at its option, to inspect such alleged defect, effect the necessary repairs either with his or its own, or with other available commercial facilities and AMI will reimburse the BUYER for these costs, adjusted to what similar labor and materials would cost in the AMI shipyard.

AMI shall not be liable for any consequential damages, loss of time or delays caused by said defective workmanship or defective materials, and in this connection, it is specifically agreed by the parties hereto that the liability of AMI under this Warranty is specifically limited to the replacement or repair of such defective workmanship or defective materials at AMI's shipyard, free of charge to the BUYER, of part or parts of vessel fabricated by AMI as may fail through such defects and workmanship or materials within the warranty period as aforesaid, or reimburse the BUYER as provided in Paragraph 2 of this Article. It is further specifically agreed to between the parties that this Warranty shall only be effective and apply to BUYER and no one else.

In the event of the failure of any part of the vessel fabricated by AMI as a result of defective workmanship or material within the aforesaid warranty period, it shall be the duty and obligation of BUYER to promptly give AMI written notice thereof, giving full information supported by photographs where possible.

AMI shall not be liable for any defects in any engine, engine accessory, item of machinery, equipment, gear or fittings, or any other items manufactured by others and BUYER shall look to the manufacturer and supplier thereof for redress.

No other warranties, express or implied, specifically excluding the implied warranty of merchantability or fitness, are or will be deemed to have been made by AMI, except the warranty hereinbefore set forth in this Paragraph.

This Warranty is given in lieu of any implied warranties and there are no warranties given which extend beyond the language and description on the face hereof.

Notwithstanding anything hereinabove to the contrary, the obligations of AMI under this Warranty shall be construed according to the laws of the State of Florida.

ARTICLE XI - TRANSFER OF TITLE

Upon completion of each vessel by AMI and receipt of final payment from the BUYER, AMI shall provide a Bill of Sale transferring Title to the BUYER which shall warrant that the vessel, except for BUYER's supplies, is free and clear of all debts, liens and encumbrances whatsoever.

ARTICLE XII - ADDENDUMS

It is understood and agreed that the parties hereto may make addendums to this Contract, and said addendums shall become a part thereof provided said Addendums are in writing and executed by said parties.

ARTICLE XIII - CONTRACTUAL PERFORMANCE

It is understood and agreed that this Contract shall be construed according to the laws of the State of Florida, and that any disputes arising hereunder shall have jurisdiction and be settled in Jacksonville, Florida, and that the place of performance of this Contract shall be at Jacksonville, Duval County, Florida.

ARTICLE XIV - NOTICES

All notices required under the terms of this Contract shall be in writing and shall be sent to the following addresses of the respective parties hereto by cable, Registered or Certified Mail, Return Receipt Requested, or cable acknowledgment:

- (1) ATLANTIC MARINE INC., CONTRACTOR
8503 McKenna Road
P. O. Box 138
Ft. George Island, Florida, 32226, U.S.A.
- (2) NEW LONDON FREIGHT LINES, INC., BUYER
div. McAllister Brothers Inc.
17 Battery Place
New York, N. Y. 10004 , U.S.A.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed in their respective names and their respective corporate seals to be hereunto affixed by their proper officers thereunto duly authorized.

Signed, sealed & delivered
in the presence of:

"CONTRACTOR"
ATLANTIC MARINE, INC.

By: _____
Its President

Witnesses to Contractor

(CORPORATE SEAL)

"BUYER"
NEW LONDON FREIGHT LINES INC.

By: _____
Its

Witnesses to Buyer

(CORPORATE SEAL)

STATE OF FLORIDA

COUNTY OF DUVAL

Before me, the undersigned authority, personally appeared
GEORGE W. GIBBS, III, to me well known to be the President of ATLANTIC
MARINE, INC., the corporation named in the foregoing instrument and
known to me to be the person who, as such officer of said corporation,
executed the same, and then and there he did acknowledge to me and
before me that said instrument is the free act and deed of said corpora-
tion by him executed as such Officer for the purposes therein expressed
and that the seal thereunto attached is the corporate seal in like capacity
affixed, all under authority duly vested in him by the Board of Directors
of said corporation.

WITNESS my hand and official seal at _____, County
and State aforesaid, this _____ day of _____, A.D. 1973.

Notary Public, State of Florida
My Commission expires: _____

STATE OF _____
COUNTY OF _____

Before me, the undersigned authority, personally appeared
_____, to me well known to be the
_____ of _____
_____, the corporation named as BUYER
in the foregoing instrument, and known to me to be the person, who, as
such officer of said corporation, executed the same and then and there
the said _____ did acknowledge to and
before me that said instrument is the free act and deed of said corpora-
tion by him executed as such Officer for the purposes therein expressed;
that the seal thereunto affixed is the corporate seal in like capacity
affixed, all under authority in him duly vested by the Board of Directors
of said corporation.

WITNESS my hand and official seal at _____, County
and State aforesaid, this _____ day of _____, A.D. 1973/

Notary Public, State of _____
My Commission expires: _____

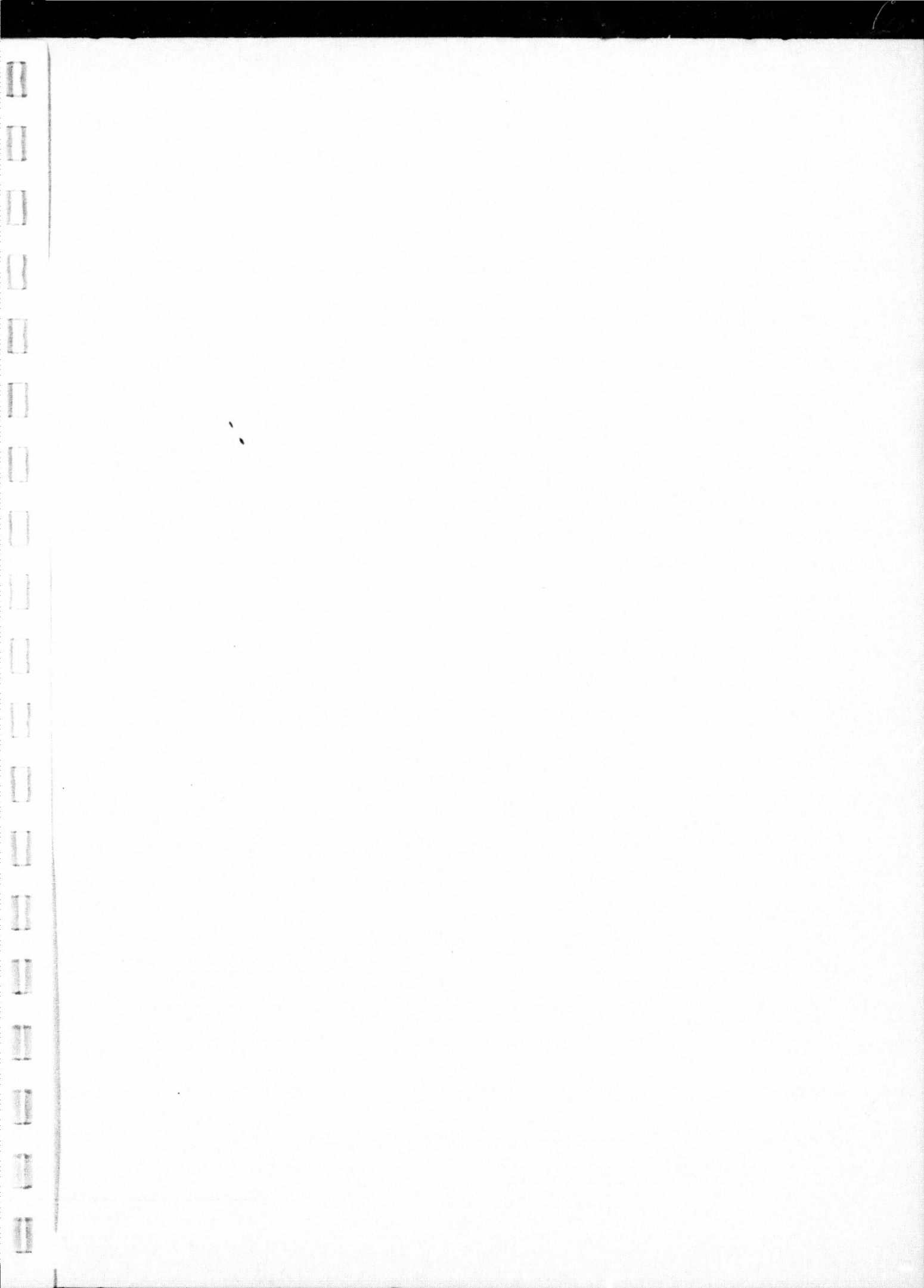




EXHIBIT 101



Before the
INTERSTATE COMMERCE COMMISSION

Docket No. W-1270

MASCONY TRANSPORT AND FERRY SERVICE, INC.

VERIFIED STATEMENT

OF

EDWARD J. TODD

My name is Edward J. Todd. I am Vice President and General Manager of Operations for McAllister Brothers. We operate a fleet of approximately 85 vessels including tugs, oil barges, covered barges, deck scows and ferries. Our vessels operate from the Gulf Coast to Maine as well as Puerto Rico and the Caribbean area. In addition to the principal offices in New York, we maintain offices in Norfolk, Philadelphia and San Juan.

The tugs vary in power from 1,000 to 4,200 horsepower, the oil barges range from 7,500 to 60,000 barrels; the covered barges have an average capacity of 750 tons each; the deck scows carry 600 tons each.

McAllister Brothers has a wholly owned subsidiary company in the ship repair business called Tug and Barge Dry Docks, Inc. This company employs an average of 140 men, has dry docks of up to 3,000 tons capacity. The repair yard maintains the New York fleet of McAllister Brothers and also does a substantial amount of work for other customers.

Prior to becoming General Manager in 1954, I was Marine Superintendent of McAllister Brothers and also in direct charge of the shipyard. I held this position from 1940 to 1954.

I worked as Chief Engineer of steam tugs from 1929 to 1940 for McAllister Brothers Inc.

I was employed by the McAllister Navigation Co. from 1932 to 1937 as Engineer of steam passenger vessels ranging in power from 500 to 2,000 horsepower.

From 1937 to 1939, I was Marine Superintendent of this fleet of five passenger vessels.

The 2,000 horsepower BEAR MOUNTAIN was a side wheel excursion vessel 245 feet long and had a speed of approximately 15 knots. The BEAR MOUNTAIN had two water tube boilers with 150 lbs. per square inch working pressure. Her main engine was an inclined compound - 35" x 72" x 72". Her fuel consumption averaged 5,500 gallons per day with her main engine running approximately 12 hours a day, but with her auxiliaries running 24 hours a day. Her total crew complement was 30 persons. This vessel ran four months a year. The average cost for annual repairs to the BEAR MOUNTAIN was \$10,000. I refer to the period 1937 to 1939. The standard hourly billing rate for New York ship yards at that time was \$1.67; today it is \$12.50. I would estimate the overall repair costs are approximately five times what they were in the 1937-39 period.

I would estimate the repairs to the NEW JERSEY would run at least \$60,000 per year.

Based on a 12-hour per day operation, I would estimate the NEW JERSEY to burn 8,000 gallons of #6 fuel per day.

On a general note, I will further advise the Commission that when McAllister Brothers was negotiating last Spring for the charter/purchase of the Vessel CARIBBEAN FERRY, I prepared a cost/revenue analysis based on my knowledge of the passenger vessel business and my review of New London Freight Lines' operating figures in past years. As a result of that analysis, I advised the Board of Directors that my figures indicated the vessel could not generate sufficient revenue to offset the annual ownership and operating costs.

It was my opinion at that time that acquisition of this vessel would increase losses for New London Freight Lines. The vessel operated approximately 10 weeks during the summer period and during that period, our revenue was only \$71,875.58 higher than last year's revenue for the same period. At last accounting, costs incurred as a result of our acquisition of that vessel are well in excess of \$100,000. Fortunately, these losses are now being offset to some degree because we were able to subcharter the vessel in the Caribbean.

In my opinion, a cost/revenue analysis for us to operate a vessel such as the SS NEW JERSEY in cross Sound ferry service would indicate a financial disaster and would surely bankrupt New London Freight Lines in short order. Her large capacity could only be utilized during the peak season and the cost that would be incurred as a result of our ownership of a vessel of this size would most certainly generate a substantial loss on an annual basis.

Edward J. Todd.

STATE OF NEW YORK)
) ss:
COUNTY OF NEW YORK)

Edward J. Todd, being first duly sworn, deposes and says that he has read the foregoing statement, knows the contents thereof, and that the same are true as stated.

Edward J. Todd

Subscribed and sworn to
before me this 27th day
of December, 1973.

Patricia M. Kelly
Notary Public

My Commission expires:

PAID BY SPILLER
NOTARY PUBLIC, STATE OF NEW YORK
10/1/75
GRANTING AND SAVING 10/1/75
GRANTING AND SAVING 10/1/75

EXHIBIT 102

SL. 102

Before the
INTERSTATE COMMERCE COMMISSION

Docket No. W-1270

MASCONY TRANSPORTATION AND FERRY SERVICE, INC.

VERIFIED STATEMENT

OF

J. BRENT LYNCH

My name is J. Brent Lynch and my business address is 17 Battery Place, New York, New York 10004. I am an executive employed by McAllister Brothers Inc. with primary responsibility for our wholly owned subsidiary, New London Freight Lines, Inc. For the past year I have devoted approximately 80% of my working time to this ferry operation in an effort to improve an area of the corporation that was causing us considerable concern. It was a concern to us because we did not feel its contribution to overhead and profit in the past was what it should be.



Last fall the concern had become more acute because projections for the coming year 1973 indicated that we would sustain a substantial loss. It was also a concern to us because we knew complaints about the service had increased dramatically as a result of only the 2 boat schedule we provided during the summer of 1972. At numerous Operating Committee and Directors meetings in 1972 the decision to invest additional monies in the company was discussed. As in the past, projections and financial analyses had been prepared. These projections indicated that at least 20 years would be necessary to pay out the nearly \$2,000,000 dollar investment required for a single new vessel. As in the past, the company was reluctant to invest this sum unless we were assured that a ferry service across the sound would be required for the foreseeable future. To that end, a series of meetings with political leaders, described in testimony by others, was held. The results of these meetings indicated that for the very first time in our history of ownership of the company the threat of a Cross Sound bridge was minimized.

All during this period and before, an intensive search was carried on by myself and other members of the McAllister family and their employees to find an additional vessel to be on the line for the summer of 1973. We traveled to the Gulf and engaged numerous brokers in this search. The only suitable vessel that was located was the "Caribbean Ferry" and at considerable expense she was acquired, modified and put on the run. It is important to point out that we were very much aware and had been for some time that the vessels owned and operated by the Delaware River and Bay Authority were available for purchase. We had daily contact with many marine brokers in the normal course of our business and these boats were often discussed and offered to us. We were familiar with these boats due to the fact that McAllister Brothers Inc. had business relationships with both companies that operated them since they were built. We occasionally provided towing services for them and in fact in 1958 we sold to the Virginia Ferryboat Company an LST which they converted and used as a ferryboat. Because of these business relationships, McAllister Brothers was acquainted with a Mr. Nolan C. Chandler who was the operating manager of this ferryboat company and a personal friend of several of the McAllisters'. When the Virginia Ferryboat Company closed, Mr. Chandler moved with the boats and established the Cape May-Lewes Delaware ferry operation for

Delaware River and Bay Authority and he acted as their general manager until his retirement 4 years ago.

I have spoken to Mr. Chandler recently and he confirmed Mr Todd's testimony of daily fuel consumption of 8000 gallons for the "SS New Jersey." He also confirmed our estimate of approximately \$1,000,000 dollars a year direct operating costs for this vessel. Chandler also advised me that the vessel "SS New Jersey" was never designed for speeds greater than 12-14 miles per hour.

After Mascony announced their plans last spring, I went down to Delaware, spoke to Mr. Miller, Director of the Authority and took a trip on the "SS New Jersey." I can assure the Commission that under no circumstances would McAllister take on the ownership of the Delaware River and Bay Authority's steam vessels unless we were guaranteed a substantial subsidy for their operation.

As I indicated earlier, we were generally familiar with these vessels because we had dealt with the people who built and operated them since the 1930's. Our Philadelphia and Norfolk offices provided towing services and from this experience we knew the characteristics of the vessels.

Since we had operated vessels similar to these, we knew generally what it costs to operate and maintain them and because we knew this, we rejected any possibility of purchasing these vessels for our own runs across the sound.

I understand Mr. Power, in conversations with our own crew members, has told them that they could work for him if we went out of business. If that happened, the men would undoubtedly expect the same wages we pay. I have reviewed Mascony's projected wages and compared them with our wages and have found that Mr. Power's projections are no where near realistic as evidenced by the following:

New London Freight Lines paid \$32,153. in boat wages for the month of November 1973. This was for 1 boat averaging approximately 12 hours per day with a 10 man crew. This amounts to daily boat wages of \$1,071. or an average of \$107. per man per day. Breaking this down even further, our labor costs for November 1973 was approximately \$8.92 per man-hour worked.

If Mr. Power is going to pay current union wages, he would have to pay the same except he has 14 men as opposed to our 10 men, therefore, his wage cost per hour would be \$124.88 (\$8.92 x 14).

According to testimony presented by Mascony they will run 4 round trips per day for the period June 17 through September 15 - 91 days. We know that in order for him to cross the sound 8 times between New London and Greenport and allowing start-up and shut down time, Mr. Power must operate at least 20 hours per day. At \$124.88 per hour times (x) 20 hours a day gives him a daily wage cost of \$2,497.60. If he operates these 91 days - 4 trips a day his wages for the period will be approximately \$227,281.; Mascony claims they will pay \$94,816. in wages for this period.

Based on our knowledge of the standard wage scale for the industry we can assure the commission that Mascony has very much underestimated his wage costs. If Mascony has very much underestimated his wage cost it is equally clear to us that he has very much overestimated his anticipated revenue.

Once again we will examine the same June-September summer period -- Our 3 boats cross the sound 24 times a day -- We know that Mr. Power with his 1 boat can only cross 8 times a day. Each of our boats can carry approximately 25 cars. Assuming ideal circumstances we, therefore, have a capacity of carrying 600 vehicles across the sound each day.

Assuming equally ideal circumstances for Mascony, they could carry at most 800 cars across the sound each day with their 1 boat. Statistically, at the very best Mascony could do only 25% better than we do in total summer revenue. Yet in evidence placed before this commission he claimed that he will do 100% better than we do in summer revenue.

In order to do that he would have to have capacity for 1200 cars a day and he doesn't. It is the nature of the business, however, that he would in fact do at least 25% worse than our summer revenue.

We know that fully 80% of our business is vacation travelers this being confirmed independently by the State of Connecticut survey already in evidence in this proceeding. It is a fact that most vacationers are sight-seers and they often are travelling with children. Sight-seers travelling with children move normally between the hours of 9 A.M. and 5 P.M. they do not travel at night.

Mascony cannot cross the sound more than 4 times during these peak travel hours. Just as our earlier morning trips and late evening trips are often lightly traveled even in mid-summer, Mr. Power will not fill his boat or even near fill it during the off hours. We know that frequency of service at peak demand hours is the only way to increase sales and under no circumstances could he approach the sales figures as indicated in 'Exhibit ⁵¹⁻¹⁵⁰ 37.'

We have heard much testimony that a ferry service across Long Island Sound provides considerable fuel savings. We do not dispute that individual savings of approximately 10 gallons per vehicle can result. However, the fuel consumed by the vessel more than nullifies this individual fuel saving. At 8000 gallons a day for Mascony's boat 800 cars would have to save 10 gallons of fuel every day. This would only be possible if every trip all year long was at capacity load and even then no overall fuel economy would be realized. Each of our vessels burns 90 to 100 gallons of fuel per hour. That is approximately half of what Mascony's one vessel will burn and even we could not claim our service "saves fuel." A few lightly travelled

crossings (and in the off seasons there are many hundreds of under capacity crossings) more than nullify the effects of the fuel economies experienced by the individuals.

Operating vessels of many different types is our business and has been McAllister Brothers primary business for over 100 years. Because it is our business, we know as well as anybody what it costs to operate vessels and more particularly ferryboats across Long Island Sound. Based on this knowledge, we can unequivocally assure the commission that:

1) Two competing parallel ferry services (or for that matter any additional ferry service between the existing ferry services) will unquestionably cause the bankruptcy of our ferry companies as well as the bankruptcy of the proposed new service.

2) The "SS New Jersey" is not an economically viable vessel to operate today. Just as she and her sister ships create operating losses for the Delaware River and Bay Authority of well over \$1,000,000 dollars annually; she and her sister ships will create losses for Mascony, and in the process New London Freight Lines as well.

The following is a quotation from the Chairman's report

published in the 1972 Annual Report for the Delaware River and Bay Authority:

"Anticipated benefits to accrue from the operation of the three new vessels when constructed were to allow the Authority to operate a more efficient ferry crossing and reduce the annual operating deficit by nearly \$1,000,000 annually. Reduction of the annual deficit will be made possible because of reduced dredging requirement, reduced fuel costs, reduced insurance costs, reduced spare parts requirements and maintenance costs for a three-vessel fleet instead of the present four-vessel fleet, reduced air and water pollution emissions to meet State and Federal regulations, and reduced manpower requirements for crew assignments."

The Delaware River and Bay Authority knows just as we know that new modern vessels is the only way to provide an economically viable ferry service. It is the intention of the management of McAllister Brothers Inc. to provide those vessels if we are permitted to go forward with our plans without the threat of destructive competition.

STATE OF NEW YORK)
) ss:
COUNTY OF NEW YORK)

J. Brent Lynch, being first duly sworn deposes and says
that he has read the foregoing statement, knows the
contents thereof, and that the same are true as stated.

Brent Lynch

Subscribed and sworn to
before me this 28 day
of December, 1973.

Patrick J. Mullally
Notary Public

PATRICK J. MULLALLY
NOTARY PUBLIC
STATE OF NEW YORK
COMM. EXPIRES 12/31/75
JAN 1 1974

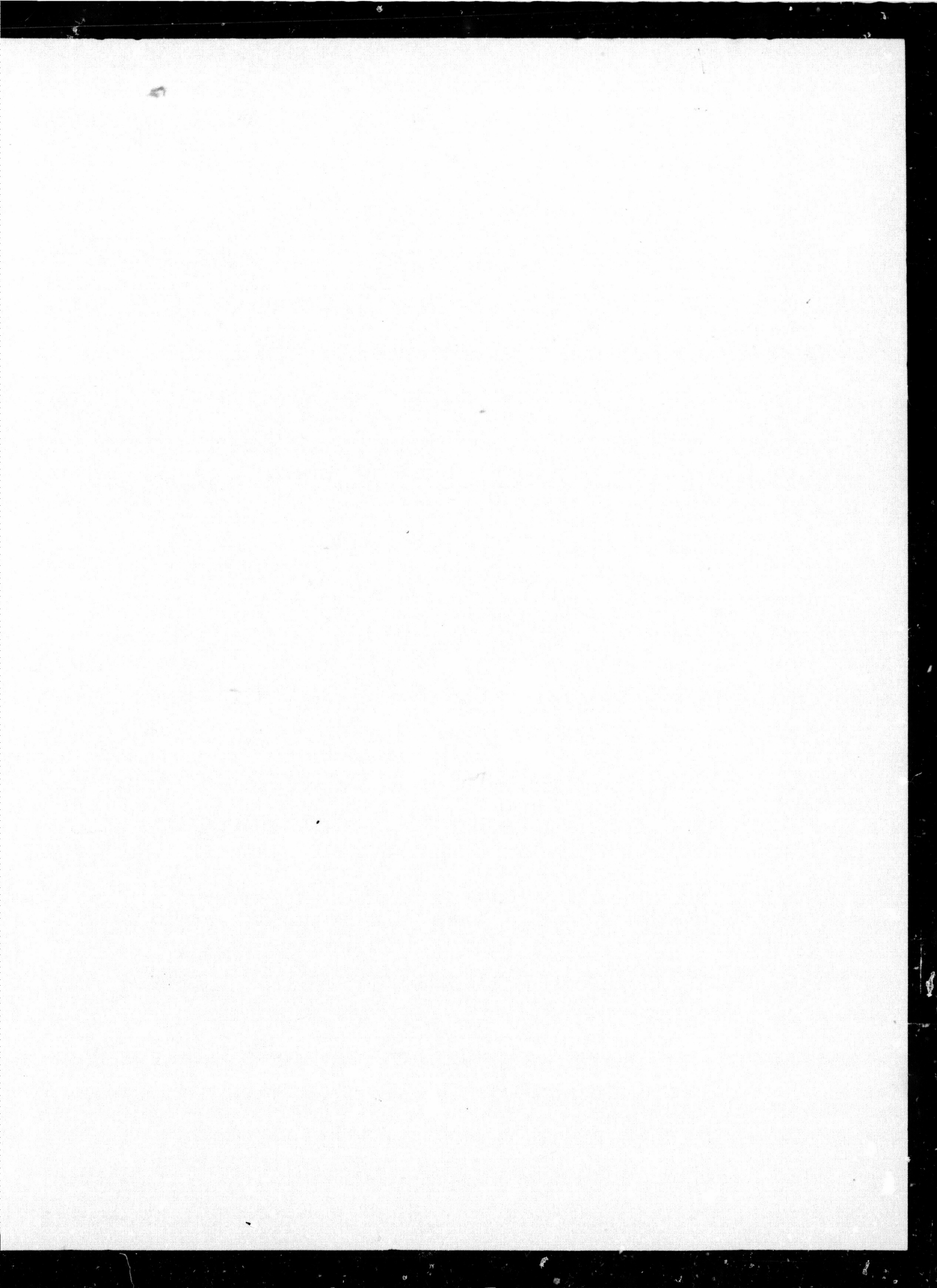
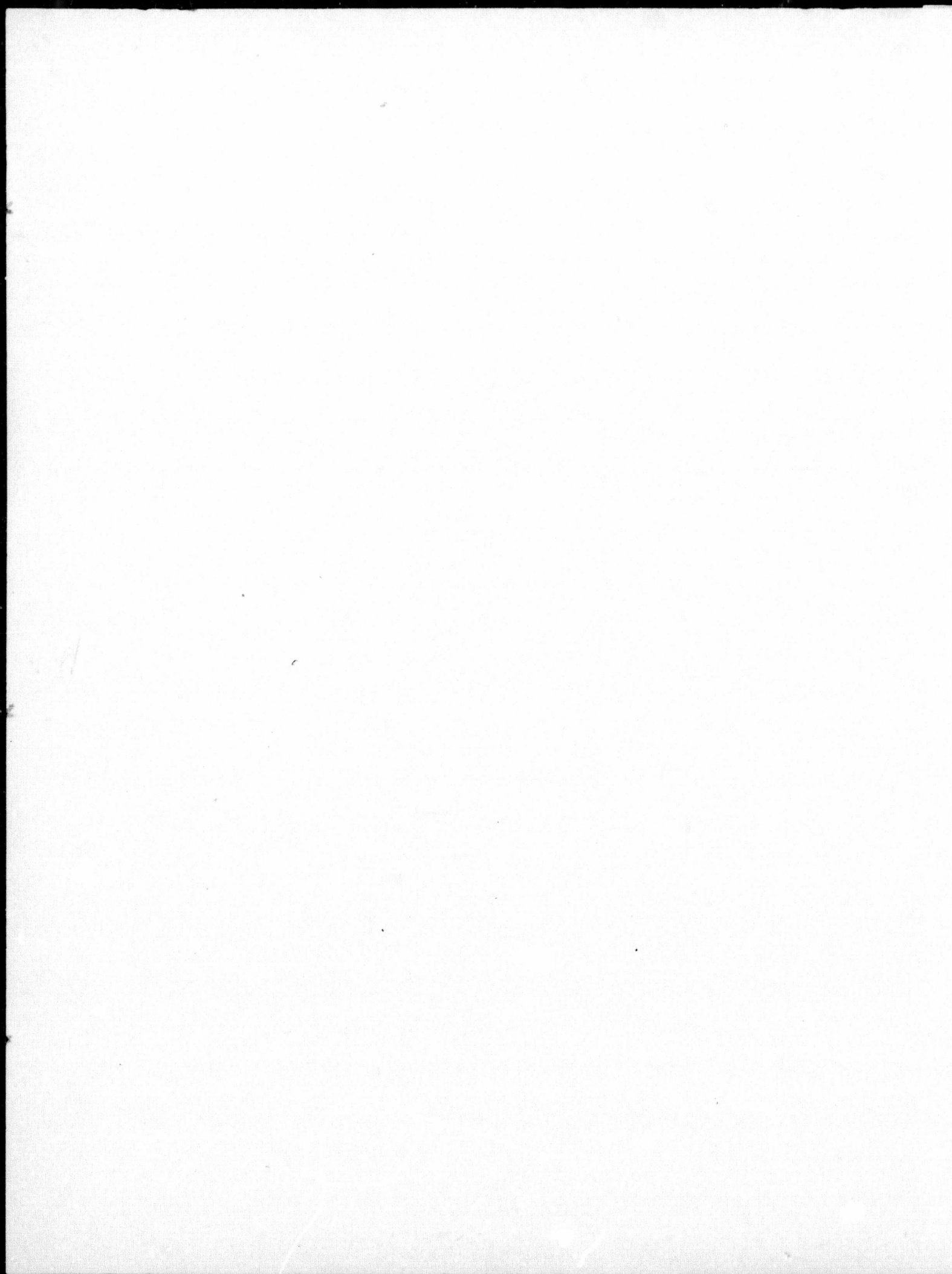


EXHIBIT 108



(Exh. 105)

PREPARED STATEMENT OF
WILLIAM J. MILLER, JR.

My name is William J. Miller, Jr., and I am Director, The Delaware River and Bay Authority, New Castle, Delaware 19720.

The Delaware River and Bay Authority is a bi-State agency of the States of Delaware and New Jersey authorized by legislation enacted by the legislatures of the two States and approved by the Congress. The Authority is responsible for all crossings of the Delaware River or Bay between the States of Delaware and New Jersey.

As the Director of the Authority, I am in charge of and responsible for the construction, maintenance, and operation of the two facilities which the Authority now operates; namely, the Delaware Memorial Bridge, a twin-span crossing of the Delaware River between New Castle, Delaware and Pennsville, New Jersey, and the ferry crossing between Cape May, New Jersey and Lewes, Delaware.

The ferry crossing was initiated by the Authority on July 1, 1964 and has been in continuous operation since that date. At the present time the Authority operates three vessels for the ferry crossing. Recently it sold the S.S. New Jersey to Mascony Transport and Ferry Service, Inc. The sale reduced the four-vessel fleet to three.

The Authority has under contract at the present time the construction of three new ferry vessels by the Todd Shipyard Corporation of Houston, Texas. When these vessels are delivered the Authority, under the terms of an existing contract, intends to sell to Mascony Transport and Ferry Service, Inc. the remaining three vessels.

I have been furnished copies of the prepared statements submitted by J. Brent Lynch, Edward J. Todd and William A. Prendergast in the application of Mascony Transport and Ferry Service, Inc., Docket No. W-1270

Having read each of the statements that were submitted by the above individuals, I wish to make the following comments:

1. Fuel Consumption

The fuel usage of the vessel which was owned by The Delaware River and Bay Authority, the S. S. New Jersey depended upon the number of trips per day, the speed and rpm's of the propellers, both of which have been noticeably altered since the time that Mr. Chandler had an affiliation with the Authority.

The Authority accountants indicate that on the basis of 150 rpm's and a 12 knot speed using No. 6 fuel on a 24-hour operation, the S. S. New Jersey would use about 6,000 gallons of fuel per day. This is based on 16 hours on the run and 320 gallons per hour and 8 hours at the dock at 120 gallons per hour.

2. Cost of Repairs

The Authority accountants indicate that in the 5-year period between 1968 and 1972 prior to the sale of the S. S. New Jersey, the Authority shipyard repairs, exclusive of shallow water

operating conditions and insurance reimbursement, amounted to \$139,848.00 or about \$28,000.00 per year.

3. Meeting and Purpose of Meeting With J. Brent Lynch

J. Brent Lynch of New London Freight Lines, Inc. called me on the telephone and arranged for an appointment. The purpose of the appointment as far as I was concerned, was to discuss the availability of vessels for purchase by McAllister Bros., Inc. for New London Freight Lines, Inc. Mr. Lynch was particularly interested in the M. V. Cape Henlopen but indicated an interest in any or all of the vessels which the Authority was going to sell including the S. S. New Jersey assuming, of course, that he could get a favorable price. As a matter of fact, after the Lynch visit, I had a telephone call from Luther Blount of Rhode Island who indicated that he was interested in purchasing the M. V. Cape Henlopen or other ferries for the McAllister interests.

During our meeting, Mr. Lynch stated that as a result of the Mascony interest in the ferry service between Connecticut and Long Island and because of the poor traffic service that the New London Freight Lines, Inc. was offering to the public, the McAllister organization realized that improvements were imperative. Mr. Lynch indicated that the owners of

New London Freight Lines, Inc. realized that they had provided less-than-efficient service and poor equipment to the users, but since the service was making money they had little interest in making changes.

It was obvious after Mr. Lynch had requested copies of the Annual Report of the Authority and copies of the Cape May-Lewes Ferry schedule that he would be primarily interested in blocking any efforts of Mascony or others to interfere with what had been a lucrative but in his words, an inefficient ferry service.

I have also been furnished copies of the transcript of that portion of the hearing that took place at Greenport, Long Island on Thursday, January 10, 1974 and have read pages 2318 through 2336 of the cross-examination of J. Brent Lynch.

I disagree with Mr. Lynch's statement appearing on transcript page 2325 wherein he denies making any overtures toward the purchase of the S. S. New Jersey. As stated previously, Mr. Lynch's visit to me was primarily for the purchase of the M. V. Cape Henlopen but he indicated an interest in any or all of the vessels which The Delaware River and Bay Authority was going to sell.

I refute the statement made by Mr. Lynch at transcript page 2335 wherein he states, "Mr. Miller indicated to me that he was very happy to get rid of those animals".

It is probable that I stated the Authority was happy to be able to negotiate a sale of the vessel, particularly since the Authority's new vessels were under construction.

There is certainly a big difference in the meaning intended when one compares "glad to get rid of" connotation with a "glad to be able to sell under certain conditions" version.

Secondly, when a comment such as "Mr. Miller indicated to me that he was very happy to get rid of those animals" is used, I object very strongly. I am not in the habit of using such language -- if Mr. Lynch is in the habit of using such language, it is his option and he should be judged accordingly.

4. S. S. New Jersey

The S. S. New Jersey was one of four ferry vessels purchased in 1964 by The Delaware River and Bay Authority from the Chesapeake Bay Bridge-Tunnel District who operated the ferry service between Kiptopeake and Norfolk, Virginia across the mouth of the Chesapeake Bay. The four vessels were purchased for a price of \$3.3 million. The vessels

were certified and licensed by the United States Coast Guard to operate across the mouth of the Delaware Bay between Lewes and Cape May constantly since the purchase. When the Authority decided to build new ferry vessels it then planned to sell the existing four vessels, the first of which was the S. S. New Jersey.

Before placing the vessel up for sale, an appraisal was requested. A qualified appraiser's estimate was \$450,000.00. Accordingly, arrangements were made to sell the vessel at this figure. A contract was entered into with a South American company. However, after depositing \$25,000.00 the South American company unable to complete the sale. The vessel was then made available to Mascony Transport and Ferry Service, Inc. who subsequently purchased it.

5. Cape May-Lewes Ferry Operations

When the Authority in 1964 initiated a ferry route across the mouth of the Delaware Bay it seemed logical to purchase and use the Virginia ferries that were being offered for sale coincidental with the opening of the bridge-tunnel complex in the same location. The Authority purchased the vessels on the basis of appraisals made indicating the value of the vessels at that

time. The actual ferry crossing includes shoal waters in several areas. These shoal water areas require repeated dredging to permit the safe operation of the vessels. At the time the ferry crossings were initiated it was estimated that the dredging would be required only intermittently. However, it was evident after the first two years of operation that the repeated dredging would be a permanent operation. Consequently, the Authority investigated alternates to avoid the costly dredging problem. These alternates included new routings which would make the ferry crossing much longer, however, none could be found; Hovercraft, which was explored through Bell Aerosystems and the Hovercraft people in England, was rejected because no existing Hovercraft can handle commercial traffic. Hydro-foil, through All American Engineering in Delaware, was also explored. However, this too was rejected because of the state of the art for commercial and large passenger usage was uncertain; Barge-type tug ferry vessels, which were deemed impractical from an operating viewpoint in exposed water areas; and finally, Shallow-draft ferry vessels which were ultimately selected as the most practical solution for this crossing.

Accordingly, plans were made for the preparation of contract drawings and specifications to build three new shallow-draft ferry vessels each of which have the same vehicle and passenger capacity as the existing ferry fleet. However, since the maximum operating draft will not exceed 7', this, should eliminate or at least reduce the dredging requirements except in the areas of the transfer bridges and slips.

It thus can be said that the primary reason for the Authority to sell the New Jersey and other vessels was to eliminate the dredging. If it were not for the dredging, the Authority in all probability would still be continuing the service with the New Jersey and the other operating ferries.

6. Ferry Revenues

The Delaware River and Bay Authority operates the Delaware Memorial Bridge and the Cape May-Lewes Ferry system. When the ferry service was initiated in 1964, it was then estimated that the ferries would be a deficit operation for some twenty years. Accordingly, the Authority was prepared to underwrite the deficit with surplus toll funds collected at the Delaware Memorial Bridge and has proceeded accordingly.

The ferry deficit has decreased from approximately two million in 1965, the first full year of ferry service, to \$980,000 in 1973. The 1973 operating deficit (maintenance and operating costs less the revenues) included nearly \$450,000 in dredging costs. It is obvious that if the dredging costs are eliminated or seriously reduced, the financial picture will be considerably improved.

The reduction in the ferry deficit has been accomplished despite the increase in #6 oil costs of \$1.95 per barrel in September 1970 to \$5.43 per barrel in November 1973.

Parenthetically, it might be interesting to note that if the same toll rates charged by the New London service were assessed against the Cape May-Lewes Ferry users in 1973, the deficit would disappear and there would have been a surplus of \$291,550. However, the Authority feels that it is acting in the best interests of the motorists to keep the toll rates at a reasonable level. The Authority's primary interest is in the efficiency and service.

* * * * *

On Friday, February 1st, I received a telephone call from Mr. Lynch in my office. Mr. Lynch inquired about the revenue and traffic conditions at

the Cape May-Lewes Ferry since the beginning of the energy crisis and resulting fuel shortages. I told him that our December 1973 traffic was ahead of our December 1972 traffic and I did not yet know the January totals.

The actual figures are as follows:

December 1973 and January 1974 compared with
December 1972 and January 1973

	<u>1973-1974</u>	<u>1972-1973</u>	<u>% of Change</u>
Vehicular Traffic	9,036	8,883	+ 1.7
Passenger Traffic	19,072	19,603	- 2.7

Then, Mr. Lynch asked about our rate schedule for the ferry. He stated that the rate for the present ferry service owned by McAllister was being changed from about \$9 to about \$14 for passenger cars. He then asked some questions about the remaining vessels for sale, and I told him that Mascony Transport and Ferry Service, Inc. was abiding by the terms of the contract for the vessel sales and so was the Authority. He also stated that he and the McAllister interests were attempting to strongly oppose the application by Mascony for a competitive route.

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

CROSS-SOUND FERRY SERVICES, INC.,	)	
	)	
Petitioner,	)	
	)	
v.	)	No. 77-4162
	)	
THE UNITED STATES OF AMERICA and	)	
INTERSTATE COMMERCE COMMISSION,	)	
	)	
Respondents.	)	

CERTIFICATE OF SERVICE

I hereby certify that I have this 18th day of November, 1977, served a copy of the Joint Appendix herein either by hand delivery or by first class mail, postage prepaid, upon the following:

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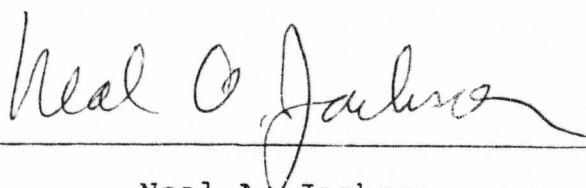
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Neal A. Jackson

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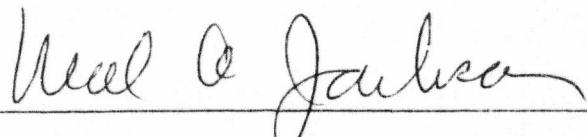
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